

PROCUREMENT SERVICES

Reference Manual



**GRADUATING
COLLEGE-READY**

DESTINATION
2025



SCSK12.ORG



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GENERAL INFORMATION

Introduction

Procurement Services is primarily responsible for giving priority status to the needs of the pupils in Memphis-Shelby County Schools and obtaining the maximum value for each dollar expended. Procurement Services' personnel is to consider the interest of the school system and the betterment of its educational programs. The Director of the Procurement Services, along with staff, performs a broad spectrum of functions as required in coordinating all phases of centralized purchasing within established Board Policy and procedures governing the procurement of goods and services for Memphis- Shelby County Schools. This manual will provide the guidance necessary for the administrative personnel involved or responsible for the purchasing functions at their respective locations; however, this information will prove valuable to every District staff member and various departments and schools.

Mission Statement

The mission of Procurement Services is to establish strategic thinking in all procurement efforts that results in: responsible stewardship of Memphis-Shelby County Schools (MSCS) resources, customer-focused services, innovative suppliers, streamlining of business processes while maintaining compliance, and sustainability and diversity woven into everything.

Value Statement

Procurement Services strives to be an ethical role model for the District and peers by demonstrating core values that are essential for building a best in class procurement operation. These core values are in direct alignment with the MSCS values:

- Inclusiveness and diversity through engaging local suppliers and utilizing diverse and disadvantaged suppliers where possible;
- Integrity and transparency through ethical behavior, compliance with stated practices and policies, and communication of MSCS goals and results;
- Effective stewardship through ongoing financial goal setting to deliver value, emphasizing vendors promoting sustainable products, and operating in a manner which supports attainment of the MSCS 2025 vision.

Vision

Procurement Services' vision is to become a world-class procure-to-pay process by creating value through strategic thinking, efficient processes, technology system integrations and exceptional customer care that support high student achievement. Procurement Services will demonstrate commitment to the community by implementing new strategies that will increase levels of spending with Local Small Business Enterprises and through the Local Vendor Preference Program. Procurement subscribes to the standards of the National Association of Purchasing Management and the National Institute of Governmental Purchasing. MSCS is a member of the Tennessee Association of School Business Officials and follows the guidelines as outlined in Federal Regulation, Tennessee Code Annotated, and Board Policy.

Code of Ethics

Procurement Services staff adheres to a strict code of ethics. MSCS Procurement Services subscribes to the standards set forth by the National Association of Purchasing Management and the National Institute of

Governmental Purchasing. Ethics in MSCS Procurement promote efficiency and honesty in the Purchasing function; create a business atmosphere where honesty and integrity prevail; portray a wholesome approach to conducting business transactions in order to dispel negative views; discourage attempts by suppliers to engage in unacceptable conduct; provide a guide for good business conduct for any Procurement Officer. Lastly, adherence to a strong code of ethics in MSCS, Procurement demonstrates for the students a strong moral character as an example of what is right in the MSCS business environment.

Purpose

The purpose of this manual is to assist MSCS internal customers in the purchase of goods, services and equipment necessary to support all schools and offices. To that end, this manual will:

1. Simplify, clarify and modernize the policies governing procurement by Memphis- Shelby County Schools.
2. Introduce compliance with federal and state laws, school board policies and Purchasing regulations.
3. To make as uniform as possible the procedures on purchasing, provide increased economy in procurement activities, and maximize the purchasing value of Memphis- Shelby County Schools funds.
4. To provide safeguards of the maintenance of a procurement system of quality and integrity.
5. How to obtain in a cost-effective and responsive manner the materials, services and equipment required by Memphis-Shelby County Schools.

Application

This manual and the policies outlined herein shall apply to every expenditure of Memphis-Shelby County Schools funds, regardless of their source, except as noted below. Nothing, however, in the manual shall prevent Memphis-Shelby County Schools from complying with the terms and conditions of any grant, gift, or cooperative agreement.

Funds exempt from application of this code:

1. School Activity Funds (School Cafeteria Funds, School Concession Funds and Internal school funds): These funds are governed by the procedures outlined in the School Activities Accounting Manual, which complies with the Tennessee Internal School Financial Management Manual.
2. PTA Funds: PTA funds as well as other parent-student or parent-teacher organizations such as a band booster and athletic support organizations shall be governed by policies and procedures adopted by each individual organization.
3. Pupil Transportation Services, as it relates to School Activity Funds (field trips and charter bus services).

PROCUREMENT SERVICES DUTIES AND RESPONSIBILITIES

Procurement Services Duties and Responsibilities

Procurement Services is responsible for purchasing all goods and services for schools, offices, teachers and staff of the Memphis-Shelby County Schools for the best dollar value. Procurement Services is committed to bid practices that offer all vendors open and fair competition. The role of Procurement Services is to ensure that MSCS internal customers have the appropriate tools to teach all children and to lead them into a successful future beyond their years with Memphis-Shelby County Schools.

The Director of Procurement Services with his/her staff performs the following primary functions:

- Coordinates all phases of centralized purchasing, Bids, Proposals and Contracts as established by board policy and at the direction of the Chief of Business Operations.
- Use the competitive bid/proposal process to ensure fair and open competition.
- Purchases all goods, services and equipment used in the school system upon receipt of properly approved requisitions.
- Assists cooperatively with the end-users in developing specifications that are descriptive of materials requisitioned and are sufficiently broad to promote competitive bidding.
- Constantly strives to maintain an up-to-date file of responsible bidders/respondents to assure securing the best prices available on the desired product, consistent with quality, service and timely delivery.
- Tabulates bids and prepares recommendations for presentation at the Board meetings.
- Coordinates with various departments and schools to schedule yearly requests at appropriate buying intervals.
- Conducts such tests as may be necessary to assure compliance with specifications to protect the school system from fraud and deceit and to protect bidders who bid specifications.
- Assists in the preparation of budgets by furnishing descriptions and estimated costs on goods and services to the various departments.
- Maintains adequate records on all transactions.
- Assists Parent-Teacher Organizations and other school groups in the selection and purchase of items for their particular schools, provided proper approval for such purchases have been received.
- Contracts for the removal of structures that have been properly approved for removal.
- Directs sales personnel to appropriate department managers.
- Develops and maintains successful vendor relationships.
- Assumes responsibility for the efficiency, productivity and integrity of the operations of Procurement Services.

Uniform and General Guidance Standards: Shelby County shall follow §200.318 General Procurement Standards through 200.326 Contract provisions.

In instances where purchasing requirements differ, the District shall adhere to the most restrictive requirement unless otherwise provided in the applicable federal regulations.

REQUESTOR'S RESPONSIBILITIES

A. MSCS EMPLOYEE ROLE

The purpose of this section is to define and describe MSCS employee role, including conduct and ethics during and after the procurement process.

It is extremely important to note that the District will not process invoices that do not have a valid contract or Purchase Order executed by authorized District personnel. Therefore, all vendors are required to have a valid contract or Purchase Order (purchases over \$500) prior to providing services or delivering goods to a school or office within the District. If the vendor provides services or delivers goods in advance of a valid executed contract or Purchase Order, the vendor does so at its own risk and invoices received will not be processed for payment. Therefore, MSCS employee must ensure that prior to receipt of services or goods delivered by a vendor, that the appropriate procedures are followed to ensure payment to the vendor.

In addition, purchases shall be made as provided by applicable Tennessee Law, Federal Law, Board policies and the policies and procedures within this manual. Any purchase or contracts entered into in violation of the policies and procedures contained herein are void and not binding on the District. **An MSCS employee may be subject to personal liability if they willfully or intentionally violate the policies and procedures set forth in this Procurement Manual including liability for the costs of services or goods incurred by the District.**

A.1. Conduct

A MSCS employee has a fiduciary responsibility to protect the interest of the District, to place the District's interest above their own, and most importantly, to safeguard the District's resources.

A.2. Ethics

Ethics is an overarching theme for schools, offices, District staff, vendors, and consultants from the time preceding the initiation of the procurement process through the fulfillment of a contract. Procurements utilizing District funds are either direct or indirect spending of public funds and subject to public scrutiny. Therefore, before, during, and after the procurement process MSCS employees must all be responsible, honest, prudent, and avoid participating in any decision-making where there could be a conflict of interest or the appearance of a conflict.

A.3. Splitting to Avoid Competition

It is unlawful to split or separate into smaller work orders/projects any work, project, service, or purchase for the purpose of evading the competitive process. No person shall willfully split a single transaction into a series of transactions for the purpose of evading the requirements. Moreover, it is against Board policy to split any service contracts to avoid the competitive negotiation requirement.

Bid-splitting is never acceptable as it is a violation of the District Policy and may result in disciplinary action and/or restricted procurement ability. Whether purchasing 50 items or 1 item, if the total of that purchase is greater than the dollar threshold and the purchase is split into multiple transactions in order to complete the transaction, it is still considered bid-splitting.

A.4. Anti-Kickbacks

It is District policy that all employees act with integrity and good judgment and recognize that accepting personal

gifts from vendors may cause favoritism. No employee of the District shall solicit or accept any personal favor, gift, gratuity or offer of entertainment directly or indirectly from a vendor who is doing or seeking to do business with the District.

A.5. Incentives and Rebates

It is District policy to not use incentives and rebates for personal benefit. In addition, it is District policy to negotiate either quantity or trade discounts in lieu of accepting incentives or entering into rebate agreements with suppliers for all methods of purchase. If a vendor proposes incentives or rebate agreements, refer the vendor to Procurement Services who will review the conditions of the offer to determine if:

- it is reasonable;
- more favorable prices are available from other vendors; and
- either the rebate or incentive value can be applied toward the purchase price.

A.5.a. Incentives

Incentives are deliberate enticements offered by a vendor to encourage a purchase. Incentives are tangible non-monetary benefits to the recipient and include any value-added goods and services offered at no charge. Examples include:

- Extra goods or services
- Gifts
- Tickets to an event
- Free merchandise

Incentives are generally not accepted because it is inappropriate for a public institution to accept either property or a service that is difficult to identify as tangible and administer to the benefit to the District.

A.5.b. Rebates

Rebates are offers from the supplier either to return part of the cost of the order to the purchaser or to provide additional consideration or compensation to encourage the purchase of goods and/or services. Examples are:

- cash or credit based on total purchases
- value-added goods or services offered at a substantially reduced price
- checks to either the purchaser or the District

If a manufacturer rebate is offered on a purchase, policy requires that the rebate check is made payable to the Memphis-Shelby County Schools. School/Office must submit the rebate check to Finance. Failure to do so may result in investigation, criminal prosecution and disciplinary action.

B. **PLANNING AHEAD**

Planning ahead is the most important step. The dollar threshold of the acquisition will determine whether the procurement will need to be competed. If the procurement will be competed, plan ahead to ensure timeliness

and efficiency. Urgency of a purchase because of lack of prior planning is not an acceptable reason to rush a purchase through. The competitive process can be lengthy depending on the complexity of the acquisition. Therefore, Procurement recommends that all internal customers begins planning by utilizing the elements under B.1. below, as well as see page 14, Timelines for Bid/RFP/RFQ & Board Approval.

B.1. Planning the Acquisition Elements

When planning the acquisition approach, correctly determine the following:

- the need that is being address;
- existing options for meeting the need(s) and the inherent trade-offs;
- funding and estimated dollar value;
- type of procurement (goods, commodity, professional service, information technology, etc.);
- review and approval process;
- impact of existing District policies and procedures;
- method to acquiring goods, commodity and/or professional service;
- timeline;
- scope of work and evaluation criteria;
- specifications and updates; and
- management and back-up plan

B.1.a. Analysis of the Need

In planning for an acquisition, the first step is to validate the need that is being addressed. Is it an isolated problem or does it connect to a larger need or issues at other sites?

B.1.b. Research of Existing Options

What research has been conducted to determine the various options to meet the procurement need?

B.1.c. Funding and Estimated Dollar Value (DD-2)

In planning the acquisition elements, the first step is to identify the funding source and budget for the acquisition. Identifying a funding source and budget will assist in determining the ability to acquire the supplies, equipment, general and professional service. The District requires an approved requisition with the budget amount before a contract and/or recommended award can be approved.

B.1.d. Type of Purchase

Determining the type of purchase begins by identifying the major objective and/or purpose of the entire purchase. In doing so, ask the following questions:

- What is the sole or main purpose of the purchase?
- Is it available in the District's Warehouse?
- Is a Master Contract/Agreement available?
- Is it for supplies, equipment, general or professional services?

STEPS IN THE PROCUREMENT PROCESS

Purchasing Dollar Thresholds

- All purchases over \$500 must be made by a valid MSCS purchase order.
- A minimum of three (3) competitive quotes is required for all purchases under \$25,000 (up to \$24,999), when possible.
- A purchase in excess of \$25,000 must be competitively bid.
- All competitive solicitations with an estimated cost of \$100,000 or more must be submitted to the MWSBE Office for Minority and Woman-owned Business Enterprises (MWBE) goal setting participation.
- All purchases for goods and services with a cost of \$100,000 or more must be presented for Board approval.

A requisition **is required** for each purchase over \$500. If AP receives an invoice for a purchase over \$500 and the employee did not receive an approved purchase order, the employee will receive an Out-of-Compliance letter that will go into their HR file. After receipt of an Out-of-Compliance letter(s), the employee may be disciplined by HR.

For purchases over \$500, the District requires verification of the budget for the total amount of the goods and/or services. Procurement's receipt of the requisition with the purchase total is confirmation that the budget is verified and encumbered.

Procurement Advisory Form (PAF)

The PAF is a Procurement form that is completed by Procurement staff, which indicates the action(s) required to process a requisition. After Procurement receives a requisition, it is analyzed as to the action(s) required for the purchase of goods and/or services. If applicable, Procurement will email the requestor the PAF to indicate the required action(s) to process the requisition.

If the requestor has to submit a contract request to General Counsel, the PAF must be attached to the contract request. The PAF is evidence to General Counsel that the requisition (budget) has been approved and the item in the contract request has been viewed/approved by Procurement. **The attachment(s) to the contract request should include the PAF and all supporting documentation required by General Counsel, or General Counsel will reject the contract request.** For questions regarding submitting a contract request, please contact General Counsel at 416-6370.

Overview of the Procurement Process

Individual purchases of \$500 or less do not require a purchase order, invoices for such purchases should be sent directly to the Memphis-Shelby County Schools Accounts Payable Office. For all non-purchase order expenditures, the budget center manager and the management level above the budget center manager must sign and approve invoices for payment. Purchases over \$500 must be requested in APECS and have a purchase order prior to purchase.

The customer enters the requisition into APECS: an administrator, financial secretary or PDSCC. The customer enters the requisition as a catalog/warehouse order or non-catalog/ special request orders. If a competitive solicitation and/or contract are not required, a purchase order is generated and issued to vendor. If a competitive solicitation is required (over \$25,000), the buyer processes as Bid or RFP and proceed with the appropriate actions required.

If the request is a Bid/RFP and does not require Board approval (under \$100,000), a purchase order is generated and issued to the vendor after approved award recommendation, as well as an execution of a contract if applicable. If Board approval is required, the buyer creates the recommendation for approval and receives the supporting board documents from the stakeholder. Board approval process as followed:

1. Director of Procurement
2. Chief of the Stakeholder
3. Superintendent's Cabinet
4. Committee Meeting with Board Members
5. Board Work Session
6. Board Meeting

After the Board approves the award recommendation resulting from the bid/RFP, the purchase order is generated and issued to the vendor, or the buyer processes the purchase order after receipt of the fully executed contract, if applicable. If the Board does not approve the recommended award of the bid/RFP, all issues are addressed.

Strategic Sourcing Suppliers

The District approves Strategic Sourcing suppliers for office supplies, educational supplies, printing services and equipment (computers, computer maintenance, copiers and copier maintenance). Procurement Services has contract pricing already in place for many and various types of equipment that is used in the classrooms. The contracts allow schools and departments to enjoy improved pricing and services. Note that where strategic sourcing contracts are in place, their use is highly recommended. Strategic Sourcing suppliers are based on Competitive Bids/RFPs. For a list of Strategic Sourcing suppliers and prices/discounts log onto www.scsk12.org and click on Doing Business with MSCS, then Pricing Catalogs.

All requests for the purchase of these items must be made in APECS.

Any questions may be directed to the Procurement Services Main Help Desk at (901) 416-5376. All schools and administrative offices are encouraged to use Procurement Services' website as a tool for information, as well as ordering use.

Purchase Order

The Memphis-Shelby County Schools purchase order is the seller's authority to ship and invoice for the goods specified on the order. The purchase order is a legal document. MSCS purchase orders will have the signature of the Director of Procurement Services; and, if applicable, the date of the bid, the date of Board approval, the vendor quote, and contract term.

Follow-Up for Orders

The follow-up and expediting of purchase orders is handled by the appropriate buyer under the direction of the Procurement Services Director. Other areas requiring follow-up by the buyer: price discrepancies, incorrect or substandard items received from the vendor, or coordination of delivery schedules.

Receipt of Purchased Items

Proper receipt of purchased items is just as important as any of the other steps in the purchasing process. Since Procurement Services does not receive merchandise ordered, it must rely upon the receiver to keep the Procurement Services fully informed. The receiver should follow certain simple steps in checking goods received.

Each receiver in checking a shipment should do the following:

1. Check to see if the shipment has been delivered to the right address.
2. Check the carton externally for evidence of severe damage that indicates it may have been dropped crushed, etc. If the carton is damaged, it should be brought to the attention of the person making the delivery and noted on his delivery receipt. Should a container be so damaged that it could easily be determined that the contents are damaged, the vendor should be notified at once for proper disposition.
3. Check the contents of the carton against the packing list and the receiver's copy of the purchase order. Any item appearing on the packing list that is not in the carton should be noted on the delivery receipt form in ink.
4. Check the quality of the shipment against quality designated on the purchase order. If there is any doubt, notify Procurement Services at once.
5. If the items received are in good condition and the purchase order is complete, the requestor of the purchase order must log on to APECS to receive his/her items.

Timeline for Bid/RFP/RFO & Board Approval

State law mandates that items over \$25,000 must be competitively bid.

Bid. After specifications have been finalized with the MSCS internal customer and the MWSBE Office has provided a MWBE goal setting participation for the purchase (purchase amount of \$100,000 or more), please allow Procurement Services a minimum of two (2) weeks to process a bid. State law indicates that bids be advertised for a minimum of ten (10) days. Procurement will work with MSCS internal customers to evaluate each bid as necessary.

Request for Proposals (RFP). After the scope of services has been finalized with the MSCS internal

customer and the MWSBE Office has provided a MWBE goal setting participation for the project (purchase amount of \$100,000 or more), please allow Procurement Services a minimum of five (5) weeks to facilitate the RFP. The RFP solicitation is advertised for a minimum of twenty-one (21) days. Procurement will work with MSCS internal customers to facilitate the project. An additional 4 – 6 weeks will be required for the contract execution.

Request for Qualifications (RFQ). After the scope of services has been finalized with the MSCS internal customer and the MWSBE Office has provided a MWBE goal setting participation for the project (purchase amount of \$100,000 or more), please allow Procurement Services a minimum of five (5) weeks to facilitate the RFQ. The RFQ solicitation is advertised for a minimum of twenty-one (21) days. Procurement will work with MSCS internal customers to facilitate the project. An additional 4 - 6 weeks will be required for the contract execution.

Board Approval. Board approval is required for the purchase of items costing \$100,000 or more. The approval of the Board is not required for fund transfers, non-expenditure transactions, and recurrent expenditures such as debt service, utilities and telephones, where such expenditures have previously been approved and/or budgeted. Approval is not required for budgeted purchases of textbooks purchased through the State Depository or testing materials.

Regular meetings of the Board Members shall be held on the last Tuesday of each month. If a meeting date falls on a legal or religious holiday, the meeting will be rescheduled. A majority of the full Board may change any regular meeting date, time and place.

If an item is processed as a Bid/RFP/RFQ and requires Board approval, the approved requisition should be in the Buyers Queue a minimum of six (6) weeks prior to Board meeting for a bid and a minimum of nine (9) weeks for an RFP/RFQ. This timeline is necessary because items that must be Board approved must be:

1. Reviewed by the Director of Procurement;
2. Reviewed by the Chief of the Stakeholder;
3. Reviewed by the Superintendent's Executive Cabinet;
4. Reviewed in the Procurement Committee Meeting;
5. Reviewed by Board Members at Board Work Session;
6. Approved by Board Members at next Board Meeting.

SOURCING METHODS

Unless otherwise authorized by law, all Memphi-Shelby County Schools' purchase orders/ contracts shall be awarded by one of the following methods:

Small Purchases

Procurement Services must make all procurements in excess of \$500. All procurements exceeding \$25,000 must be made through competitive bids. Procurement requirements shall not be artificially divided to constitute a small purchase.

Master Purchase Order (Repetitive Purchases from a Single Vendor)

Whenever Procurement Services identifies the repetitive purchases of services and goods such as supplies, furniture, fixtures, equipment, and material of every kind, from one vendor, even if individual orders are less than \$500, Procurement Services may require a Master Purchase Order for such items.

Sole Source Procurement

A contract may be awarded for a supply, service, or construction item without competition when, under regulations, the Director of Procurement Services, determines that there is only one source for the required supply, service, or construction item.

Sole source is a non-competitive purchase or procurement process accomplished with only one source, thus limiting full and open competition. The Board of Education and Procurement Services' policies limit the use of the single source and/or sole source purchases. Every effort must be taken by schools and offices to solicit competition when procuring for goods and services. Schools must obtain prior approval from the Instructional Area Superintendent of their Educational Service Center (ESC) on the applicable justification memorandum to submit a Sole Source contract request. Offices must obtain prior senior staff approval on the applicable justification memorandum to submit a Sole Source contract request.

In cases where Procurement Services and the School/Office agree via justification that an article of a specified brand or trade name is the only article that will properly meet the needs of the District, competition is exempt. Specifications for commodities, goods or services may designate a product by brand or trade name when one or more of the following conditions apply:

- The product is designated to match others in use on a particular District improvement that has been completed or is in the course of completion.
- One product has a unique application required to be used in the District's interest.
- Only one brand or trade name is known (for example, patented technology).
- Upon resolution of the Board, the Board makes a finding that the item sought is the subject of a field test to determine its suitability for future use.

a. Difference between Sole Source and Single Source

<p>What is Sole Source?</p>	<p>Specific products or services available from one and only one source, also called sole source, sole provider, sole supplier, sole vendor, or sole distributor. The product or service must be so unique and innovative to reasonably conclude that, if the requirement were to be openly competed, the requirement could be satisfied by one and only one source.</p>
<p>What is Single Source?</p>	<p>A single source is a source specifically selected amongst others, if any, due to specific reasons, i.e. availability, capacity, location, replacement parts, compatibility, quality, service, support, etc.</p>

b. Sole Source Evaluation Factors

Sole source solicitation constitutes a violation unless it is justified by one of the seven circumstances listed below:

1. Only one responsible source and no other supplies or services will satisfy agency requirements; Must also meet the following sub-requirements:
 - a. uniqueness, i.e. the item is only available from one single supplier (one-of-a-kind, parts maintenance, compatibility, standard compliance, patent, trade secret, copyright); or
 - b. immediacy, i.e. delivery date or delays resulting from competitive solicitation are not acceptable; or
 - c. emergency, i.e. delays resulting from other methods of solicitation are not bearable; or
 - d. legitimacy, i.e. specific contexts (geographic, contractual, political, legal, military, security, etc.) may allow such a non-competition of sources; or
 - e. inadequacy, all sources are qualified as inadequate (compatibility, compliance, price, quality, service, support, etc.); or
 - f. exigency, i.e. any other specific reason dictating the choice of a given provider.
2. Unusual and compelling urgency;
3. Industrial mobilization; engineering, developmental, or research capability; or expert services;
4. International agreement;
5. Authorized or required by statute or grant;
6. National security; and
7. Public interest.

c. Inappropriate Sole Source Justification

Sole sourcing is not appropriately justified when used as a method of selecting a preferred vendor. Past performance alone is not an acceptable sole source justification. Notwithstanding the fact that they could be voided by potential sole source solicitation protests, purchases of this kind, when put under scrutiny, will surely attract auditors' interest in their quest for details suggesting a bit of favoritism, partiality, and other bias.

d. Single Source

In the case of Professional Services where the school or office performed the Informal RFP process, which yielded no other competitive responses, schools must obtain prior approval from the Instructional Area Superintendent of their Educational Service Center (ESC) on the applicable justification memorandum to

submit a Single Source contract request. Offices must obtain prior senior staff approval on the applicable justification memorandum to submit a Single Source contract request. The Board of Education and Procurement Services Division policies limit the use of the single source and/or sole source purchases. Every effort must be taken by schools and offices to solicit competition when procuring for goods and services.

In cases where Procurement Services and the School/Office agree via justification that only a single vendor will properly meet the needs of the District, competition is exempt.

Single source procurement is one in which multiple sources are available, but the item(s) or service must be purchased from a specific vendor for a specific reason. Such reasons would include, but are not limited to:

- Service issue;
- Location;
- Availability;
- Capacity;
- District or school emergency; and/or
- State or grant mandated provider

e. Justification

The following questions must be answered and must be provided to Procurement Services by the school/office:

- Why is this necessary?
Explain why this service is required.
- Why is this firm selected?
Does MSCS have prior experience with the vendor that this procurement will build upon? Is the service to be provided unique or proprietary in nature? Please include whether the firm is a small business and/or its employees belong to a union. If grant-named vendor, indicate.
- Explain why this contract could not be competitively bid.
Describe why this contract request could not undergo the normal competitive bid process required by the Board.
- How was a fair price established?
Provide details about the firm's competitors and pricing; how this is a best value for the District.
- What would happen if this were not approved?
Clarify ramifications of taking action versus not taking actions; including delay for competitive procurement.
- What are the terms of the proposed agreement?
Identify terms of any proposed agreement, including the funding sources. Identify any savings over the previous year, "green" initiatives.

Emergency Procurement

Emergency purchases are purchases made because of the existence of an emergency condition. An emergency condition is an unforeseen danger to life, health, safety, or property. The existence of such a condition creates an immediate and serious need for goods, services, or construction that cannot be met through normal procurement methods.

Emergency purchases approved by the Director of Procurement Services may be made without a purchase order; however, if these purchases fall within the amounts that require Board approval, they shall be presented to the Board at the next regular meeting.

Quote

Quotes are informal solicitations for items totaling less than \$25,000 that are not publicly solicited. Purchases estimated to be from \$500.00 to \$24,999.00 must be made by Procurement Services instead of the school/office. Quotes may be taken by phone or emailed from a minimum of three vendors.

Purchases with an estimated value over \$500 to \$24,999 may be made through quotes or competitive written quotes; these may be emailed to Procurement Services by the vendor but must meet quote deadlines. These quotes are not read publicly. Currently, State law requires a minimum of three competitive quotes for items that are under \$25,000, when possible.

Competitive Sealed Bidding

A bid is a document that includes a description and all contractual terms and conditions applicable to the procurement. Tennessee Code Annotated requires that all purchases for supplies, furniture, fixtures, equipment, material and non-professional services of every kind in excess of twenty-five thousand dollars (\$25,000), including those of individual schools, shall be based on competitive bids.

After specifications have been finalized with the MSCS internal customer and the MWSBE Office has provided a MWBE goal setting participation for the purchase (purchase amount of \$100,000 or more), Procurement Services requires at least two (2) weeks to process a bid. State law indicates that bids be advertised for a minimum of ten (10) days. Procurement Services advertises all significant formal bids and proposals whose total estimated value to be \$25,000.00 or more on the Procurement section of the MSCS web page. Large dollar bids or proposals that will have significant impact on the District are advertised in Local newspapers.

Invitations to bid are sent to prospective bidders electronically. The bidders respond to the bid solicitation. Bids include the required quantity, specifications, and directions for delivery of that commodity. Bids that are issued from Procurement Services include the Local Vendor Preference Program overview. Bids remain sealed until the bid deadline has expired. Bids are opened and evaluated by the sourcing staff and the internal stakeholder.

Unless governed by the Local Vendor Preference Program, the best and lowest bid shall be accepted, provided that the district reserves the right to reject any or all bids or any part of any bid and, if applicable, to accept that bid which is best as evidenced by reasons relative to the purpose of the purchase. Procurement Services works closely with the departments requesting the items to determine which bid meets all specifications and which bid is best for the District. When the best bid is not the lowest received, a letter or memo of justification is requested by Procurement Services from the customer.

Any bid response may be withdrawn prior to the scheduled time for the opening of bids. Any bid response

received after the time and date specified may not be considered. Memphis-Shelby County Schools reserves the right to accept or reject any bid as deemed to be in the best interests of Memphis-Shelby County Schools. The bidder to whom the award is made may be required to enter into a written contract governed by policy. Splitting an order to avoid the use of bidding or other purchasing procedures is prohibited. Employees found in violation of this provision may be subject to discipline up to and including dismissal from employment.

Special Procurements

A special procurement is one in which the Director of Procurement determines that an unusual or unique situation exists that makes the application of all requirements of competitive sealed bidding unnecessary. Any special procurement under this section shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the procurement and for the selection of the particular contractor shall be included in the justification information.

Procurements of Services or Professional Services

Contracts for services must be obtained through a process that is equitable and fair that ensures that sound decisions are made relating to the educational program. All contracts will be reviewed, approved and processed on a regular and timely basis. A time frame will be established whereby each contract in each category will be reviewed and appropriate action taken to renew, obtain a new bid and/or terminate the contract.

The contracts shall be placed into one of the following categories: Professional Service; Public Service; Insurance; Sole Source Provider; Leases; Maintenance/Repair.

This policy only applies to contracts for services that exceed \$5,000, extend beyond one-year and are not covered by any other established purchasing procedure. Board approval is required, and leases may not have a term greater than thirty-six (36) months.

Memphis-Shelby County Schools shall secure quality professional services for its schools from highly competent and ethical providers. Professional Services are those services provided by an individual or group of individuals that involve unique creativity, talents, and abilities or special training and/or skills. Professional Services include auditing, accounting and financial services, business-consulting services, educational consulting services, insurance, research services, seminar leaders, surveys and studies, and technical services.

To ensure that Memphis-Shelby County Schools selects the best-qualified providers who meet the highest standards, all contracts for professional services must go through a review and approval process. Contracts for professional services shall not be based upon competitive bids.

STATEMENT OF WORK FOR PROFESSIONAL SERVICES

The elements of a Statement of Work (SOW) can vary with the objective, complexity, size, and nature of the work to be performed. A SOW should be drafted in clear, simple, and concise statements. There should never be a question as to what work is to be completed, or what the contractor is obligated to do – nothing should be implied. Requirements should be clearly stated to easily determine compliance to the contract. All requirements should be described in sufficient detail to assure clarity. Every effort should be made to avoid being ambiguous.

There are five (5) basic parts that will provide a practical discipline for drafting a SOW. They are as follows:

Scope	A broad, non-technical sketch of the nature of the work required. This part summarizes the actions to be performed by the contractor and the results expected by the District.
References	All documents invoked elsewhere in the SOW should be listed by document number and title. Pinpoint specific chapter sections, etc. applicable to the contract. Explain where the material may be obtained. The documents may include District Bulletins, laws, scholarly studies and technical publications, reports, standards, specifications, and other references needed to clarify or support the work task.
Requirements (References/Tasks)	Explain precisely the work to be performed in clear, understandable language. Set out exactly what is needed and the specific objectives. Define the nature of the work, with strong “work” words, as objectives.
Program Management	List indications of the project meeting requirements, reports required or anything to do with project management.
Deliverables	Specify what “tangible” or “intangible” work products should be produced as a result of project execution, and when they should be delivered (i.e. status report due 30 days after contract start).

A SOW is unique for each procurement, but usually consists of some or all of the following:

1. A general statement of the scope or extent of the work to be performed.
2. The period of performance of the work.
3. The place for performance of the work.
4. Reference documents, procedures, or specifications governing the work to be performed.
5. The specific work requirements:
 - a. A detailed statement of the purpose, objective or goals to be undertaken by the vendor.
 - b. The job classification or approximate skill level of the personnel to be made available by the vendor.
 - c. An identification of all significant data deliverables and material to be developed by the vendor and delivered to the District.
 - d. An identification of all significant data or materials to be delivered by the District to the vendor.
 - e. An estimated time schedule for the provisioning of these services by the vendor.
 - f. Completion and Acceptance criteria for the work to be performed.
6. Management or administrative requirements of the work.
7. Compliance or Progress Reporting requirements.
8. Completion or Close-out requirements.

DELIVERABLES / DATA / PROPRIETARY RIGHTS

It is important to include where applicable data or proprietary rights. For example:

“Contractor in performance of its duties described within the scope of services agreed upon between the school or office (District) and the contractor, acknowledges that the District holds all exclusive and proprietary rights to the deliverables produced under the referenced agreement (contract or Purchase Order). i.e., photographs taken as part of the scope of work; programs, software, lines of code written for a specific development project; intellectual properties developed as a part of a District paid/funded contract or project; documents written as a

deliverable under an agreed upon project; etc.”

“Contractor acknowledges that the District has exclusive and unlimited rights to such deliverables, which the contractor shall not have any rights to use, reuse, sell, resell, re-engineer, reverse engineer, provide to others, or maintains copies for work or archival purposes. Upon completion of the contract and within thirty (30) days from acceptance of final deliverables by the District, contractor shall provide written certification that it has purged and destroyed all copies of the deliverables (hard and electronic copies) from their possession, including subcontractors and those affiliated with the performance of duties under the agreement.”

PERFORMANCE ORIENTED OR PERFORMANCE BASED

Performance based SOW are the preferred method of stating needs. A performance-based SOW structures all aspects of procurement around the purpose of the work to be performed and does not dictate how the work is to be accomplished. It is written to ensure that the vendor is given the freedom to determine how to meet the District’s performance objectives and provides for payment only when the results meet or exceed these objectives.

Request for Proposal (RFPs)

RFPs are issued for a service or special project and allow for a wider interpretation of what is required of the vendor in order to complete the project successfully. The District often requires services that are provided by consultants or highly specialized vendors. Request for Proposals (RFPs) are often awarded based on the services offered and competence within the area of specialty and are evaluated by a team or committee convened for that purpose. Proposals are awarded on criteria other than low bid dollar amount.

CONSTRUCTION BID PROCESS

Construction Bid Process

Memphis-Shelby County Schools adheres to guidelines established by The State of Tennessee Board for Licensing Contractors, Memphis-Shelby County Schools Policy and Procedures and Procurement Services Policy and Procedures when soliciting bids for construction projects. The bid process for construction bids is the same as the overall bid process except for the following additions:

1. An extra form is provided with the bid to assist the bidder in providing certain state required information for projects that are \$25,000.00 or greater;
2. For projects that are \$25,000.00 or greater, the successful bidder shall be required to provide a Performance Bond executed by a surety or bonding company in the full amount of the bid price of the project and the cost of the bond is to be included as part of the bid price;
3. Proof of insurance in pre-determined amounts listing Memphis-Shelby County Schools as the Certificate Holder is required;
4. Projects such as re-roofing projects, large capital projects, or any so designated project, bidders may be required to include a "Bid Bond" for 5% of the total bid price with their bid.

The following items are required of vendors in order to have a valid and binding construction contract with Memphis-Shelby County Schools:

1. A vendor number on file in Procurement Services;
2. A State of Tennessee Contractors License for projects that are \$25,000.00 or greater, proof of which must be documented/verified by the buyer prior to awarding a bid to a contractor;
3. A formal Contract signed by an authorized official of the company and approved by an authorized Memphis-Shelby County Schools official;
4. An official Memphis-Shelby County Schools Purchase Order document signed by the Director of Procurement Services;
5. A Memphis-Shelby County Schools Purchase Order containing the date that the project was approved by the Shelby County Board for all projects \$100,000.00 or greater;
6. A signed, numbered and notarized Performance Bond executed by a surety or bonding company in the full amount of the project and containing the notary's seal must be on file with Memphis-Shelby County Schools for projects \$25,000.00 or greater;
7. Proof of insurance on file documented by a "Certificate of Liability Insurance" issued by an authorized insurance company listing the vendor as the insured, Memphis-Shelby County Schools as the Certificate Holder and listing the project(s) covered. Standard Operating Procedure (SOP) requires coverage of: Workmen's Compensation Insurance: in accordance with Tennessee State Law; and General (Public) Liability, which required coverage is included in the bid solicitation document.

SPECIFICATIONS AND QUALITY CONTROL

Specifications and Quality Control

Quality is just as important as price, and it is the duty of Procurement Services, working in conjunction with the using school/school to secure the best quality for the purpose intended. Quality buying is defined as the purchase of goods, supplies, materials, equipment or services that will fulfill the requirements for the purpose intended at the best dollar value.

Appropriate specifications aid in obtaining proper quality. Procurement Services personnel work closely with using departments in writing adequate specifications and updating current specifications. Specifications are descriptions of the material and/or services to be purchased. Specifications should fulfill but not necessarily exceed requirements. Several types of specifications used by Procurement Services are:

1. Specifications by brand or trade name: This type of specification is used when branded products have been proven the best for the intended use. An example of this type of specification would be in the purchase of brand name educational toys and games for Exceptional Children. Brand name and model specifications also establish quality standard usually known by the vendors in that industry. Procurement Services usually has several brands of a type of product that have been proved acceptable. Few brands do not have comparable and competitive equals.
2. Blueprints: specifications by blueprints are used in the purchase of new construction, renovation, grading, paving, special parts for maintenance shops, etc.
3. Chemical analysis or physical properties: a specification by chemical analysis is used for the purchase of paint, varnish, lacquer, etc. Specifications by physical properties would include items such as steel, pipe, etc.
4. Identification with standard specification known to the industry: this type of specification is used when industry standards have been set up and are well known to all. Lumber is frequently purchased according to the National Hardwood Grading.

Whatever type of specification is used, there are certain criteria any specification must have to serve the purpose of Procurement Services. Appropriate specifications should be:

1. Simple, clear and concise.
2. Thorough enough to eliminate the bidding of materials not consistent with quality requested.
3. Fair to all vendors to create an atmosphere of open competition.

VENDOR MANAGEMENT

Vendor Management

Memphis-Shelby County Schools Procurement manages the vendor file for a substantial number of vendors. Vendors are not only suppliers of products, but also those who are paid to work for Memphis-Shelby County Schools on a contract basis. Therefore, vendors are suppliers, employees paid for travel reimbursements, referees for ball games, and many others who perform services for Memphis-Shelby County Schools.

Vendors may register with the District by logging onto www.scsk12.org and clicking Doing Business with MSCS, then Vendor Registration Form.

eSchoolMall

Suppliers who wish to compete for bids must apply for a vendor number using the procedures above. Also prospective vendors should register for Procurement Services' bidding platform eSchoolMall, <http://www.esmsolutions.com>, in order to receive bids.

If a supplier should have any questions regarding eSchoolMall registration, the supplier must contact eSchoolMall at (877) 969-7246. If a supplier has any questions concerning email notification for any on-line bid advertised on Procurement Services' website, the supplier should contact Procurement Services at (901) 416-5376.

Suppliers can see a full list of MSCS bids and RFPs by logging onto www.scsk12.org and clicking on Doing Business with MSCS, then Bids & RFPs.

Fair Business Opportunity

Memphis-Shelby County Schools Procurement Services strives to ensure that all bidders are offered a fair and reasonable opportunity to bid for all products and services. MSCS implements the local preference policy, which allows a 5% preference for suppliers who have a business license in Shelby County and a street address in Shelby County six months before the bid due date (including all requirements in Policy 2011 Local Preference Purchasing), and who qualify as the next lowest bidder, within 5 % of the low bid. Memphis-Shelby County Schools Procurement works closely with MSCS MWSBE Office, as well as the Mid-South Minority Business Council, to ensure that all MWBE (Minority/Women Business Enterprises) are on par with all other vendors in the Memphis and Mid-South Statistical Area in terms of opportunities for business development and sustainability.

- *MWBE Participation:* For a formal bid or an RFP (solicitation) that is estimated to be a cost of \$100,000 or more, MSCS MWSBE Office must access the project to set a goal for local Minority and Women-owned Business Enterprises (MWBE) participation (MWSBE Policy #2010). When a requisition is received by Procurement Services that requires a formal solicitation with an estimated cost of \$100,000 or more, a notification of action (s) required will be sent to the requestor regarding the project/purchase. The stakeholder **must** complete the required forms on the MWSBE Office website and submit them to the MWSBE Office for project goal setting for the next upcoming weekly meeting. Please view MWSBE website for detail instructions and deadline information at: <http://www.scsk12.org/mwbe/>

Debarred/Suspended Vendors

Vendors or contractors, on the basis of documented unsatisfactory performance, may be debarred from contracting for particular types of supplies, services, and construction, permanently or for a specified period of time. The vendor will be notified in writing of the particulars of the debarment. Any purchases conducted on a state or federally funded contract or grant shall be checked against a State of Tennessee and the federal debarment list. These procedures identify the processes to be followed for these reviews.

Definition: A Debarred Vendor is a vendor that has been debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits. A list of debarred vendors may be found on the Excluded Parties List System at www.sam.gov.

Debarment Review Procedure

All MSCS purchases (purchase orders, contracts, and independent contract agreements), regardless of account coding, in excess of \$25,000 (as per FAR regulations) for goods or services shall be checked against the state and federal government debarment listing. This check is to be performed to the following links for Federal and State, respectfully. - <http://www.sam.gov> and <https://www.tn.gov/generalservices/procurement/central-procurement-office--cpo-/local-units-of-governments-/procurement-information.html>

All individual Buyers and Vendor Assistant within the Procurement Office will verify that the selected Vendor is not on the Debarred Vendor list & will report the status of the vendor back to the School or Department. The vendor clerk shall note, or comment shall be made in the purchasing system records using the "header comment" field, enter the comment: "Vendor checked against the Debarred Vendor list, listing name and date of the person verifying.

If the vendor is on the debarred list, the school/department will need to select a different vendor. Once the requisition has been edited and approved it will appear on the buyer's activity report and will be converted into a purchase order and emailed to the vendor.

PROCUREMENT DO'S AND DON'TS

Below are 7 “Do and Do Nots” to provide guidance in certain situations. The Do and Do Nots are also included in areas of the manual to reinforce their importance to particular situations. The notations, DD-1, DD-2, etc., which appear on section headers throughout the manual, refer to the Do and Do Nots in this section.

DD-1 After the Fact Contracts

An employee is out-of-compliance if he/she gives a vendor approval to begin services before submitting a requisition to Procurement and a contract is not fully executed, in which being out-of-compliance may require further employee disciplinary actions.

DO submit a requisition for each purchase of goods and services; therefore, Procurement will analyze the requisition and contact the requestor regarding the actions required based on policies.

DON'T authorize a contractor to commence services or ship products unless a valid, fully executed contract and/or Purchase Order has already been established by Procurement Services.

DD-2 Funding

DO ensure that contract funding is in place for a purchase of goods and services. The District requires an approved requisition before a contract and/or recommended award can be submitted for approval. Federal “Anti-Deficiency” law requires that contracting officers not enter into contracts unless they can be fully funded.

DON'T authorize a purchase without first obtaining a valid purchase order. The approved requisition is evidence that the funds are available, and approvals were granted for the budget use of the funds.

DD-3 Issuing a Contract

DO check with General Counsel Office if a vendor asks school/office to sign a contract.

DON'T sign a contract unless an MSCS employee has the signatory authorization based on District policy.

DD-4 Grant Funded Contract Requests

DO check with Procurement prior to applying for a grant, to see what competitive processes can be started or planned in the early stages.

DON'T let a contractor write him/herself into the grant application, whenever possible. The service and price received from vendor may not be of good value. Compliance of District policies should be analyzed at all times.

DD-5 Competition

DO recognize that the money spent using contracts and Purchase Orders belongs to the public, and that competition is required by Board policy and by the State of Tennessee Code Annotated to ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds; to provide all

qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices; and to eliminate favoritism, fraud, and corruption in the awarding of public contracts.

DON'T submit a requisition with a Single Source Justification, if competition can be obtained. Check with Procurement before attempting to write a Single Source Justification. Within certain dollar ranges, schools/offices can conduct their own informal competitive process and can also request Procurement to issue a competitive solicitation at the higher dollar amounts.

DD-6 Bid Splitting

DO recognize that according to the SCBE Policy it is a violation of policy to split or separate into smaller work orders or projects any work, project, service, or purchase for the purpose of evading the competitive procurement requirements.

DON'T issue multiple contract requests (or low dollar Purchase Orders) for smaller sections of the total requirement to avoid going thru the competitive process, or to avoid obtaining the required District or Board approvals.

DD-7 Rebates, Premiums, Incentives, and Kickbacks

DO contact Procurement for advice if a vendor offers or suggests that school/office accepts something of value that is not part of the official offer.

DON'T accept any "kickback" from a vendor (personal favor, gift, gratuity or offer of entertainment). Don't accept premiums, rebates or incentives for the school or office, unless they are clearly defined in the offer.

APPENDIX

Shelby County Board of Education

2011

Issued Date: 01/29/13

Revised: 08/31/21

LOCAL PREFERENCE PURCHASING

I. PURPOSE

To give a local preference to businesses located in Shelby County, Tennessee for the purchase of supplies, materials, equipment, and services.

II. SCOPE

This policy applies to District level contracts with a total dollar purchase greater than \$25,000.

III. DEFINITION

- A. Local Preference Purchasing means giving preference to businesses located within Shelby County, Tennessee in the purchase of personal property, materials, and contractual services and in constructing improvements to real property or to existing structures.
- B. Local Business means a vendor or contractor who holds a valid license to do business in Shelby County, Tennessee; has a street address within the limits of said locality for a continuous period of at least six (6) months prior to bid or proposal opening date; and has proof that Shelby County Personal Taxes are current (applies to local businesses who have been doing business in Shelby County, Tennessee for a year or more).

IV. POLICY STATEMENT

The Shelby County Board of Education recognizes that a significant amount of funds is spent on purchasing personal property, materials, and contractual services and in constructing improvements to real property or to existing structures. The Board also recognizes that dollars used in making purchases are derived largely from revenues generated from businesses located within Shelby County, Tennessee. The Board believes that funds generated in the community should be placed back into the local

economy. Therefore, it is the policy of Shelby County Board of Education to provide a preference to local businesses in procurement transactions whenever the application of such a preference is reasonable in light of the dollar-value of proposals received in relation to such expenditures.

In the bidding of, or letting for procurement of supplies, materials, equipment and services, with a total price greater than \$25,000, if the lowest responsive bidder is a regional or nonlocal business, then all bids received from Local Businesses are decreased by five (5) percent. The original bid is not changed; the five (5) percent is calculated only for the purpose of determining the Local Preference. The Local Preference cost differential is not to exceed one hundred thousand dollars (\$100,000.00).

In the case of request for proposals, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, Local Businesses will be assigned five (5) percent of the total evaluation points up to a maximum of five (5) points.

In the event of a tie between a local and non-local business, favor shall be given to the Local Business and a coin toss method will be used to break ties between two (2) or more local businesses meeting said specifications.

Exceptions

This preference shall not apply to purchases or contracts that are funded in whole or in part by a governmental entity if the laws, regulations or policies governing such funding prohibit application of the Local Preference; when exigent emergency conditions or noncompetitive situations exist; and when a particular purchase, contract, or category of contracts for which MSCS is the awarding authority is waived upon written justification and recommendation of the Board.

Restrictions

The Local Preference shall apply to District level purchases only. The preference shall apply to new contracts for supplies, materials, equipment, and services first solicited after January 29, 2013.

V. RESPONSIBILITY

- A. The "users" of services are responsible for furnishing an objective evaluation of their needs and for identifying the specifications of the services to be delivered.
- B. The Chief Financial Officer is responsible for developing final specifications and obtaining all bids, requests for proposals, and contracted service agreements.

- C. The Chief Financial Officer is responsible for ensuring that all services have been properly approved and all procedures followed before signing contractual agreements.
- D. The Superintendent is responsible for ensuring compliance with this policy.

MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISE PARTICIPATION

I. PURPOSE

To ensure that a supplier diversity program is developed and implemented to encourage and promote participation of minority- and woman-owned business enterprises (MWBE) in procurement opportunities with Memphis-Shelby County Schools.

II. SCOPE

This policy applies to the procurement of all goods and services by the Shelby County Board of Education, except those exempted by sole source contracts.

III. DEFINITIONS

Minority - a person who is a citizen or a legal resident alien of the United States and who is (a) African American; (b) Hispanic; (c) Asian American; (d) American Indian; or (e) Female.

Small business – an entity that is independently owned and operated, organized for profit, and not dominant in its field. Size standards based on an industry-by-industry basis. (See 13 CFR 121). Small business size standards matched to industry NAICS codes are published by the Small Business Administration and are available at <http://www.sba.gov/content/table-small-business-size-standards>.

IV. POLICY STATEMENT

The Shelby County Board of Education (hereafter referred to as the “Board”) recognizes that minority, women, and small business owners frequently face unique problems that are not encountered by majority-owned businesses. Therefore, it is the policy of the Board to take necessary affirmative steps, in accordance with 2 CFR 200.321, to assure that equal opportunities are provided for MWBEs to participate in the performance of District contracts financed in whole or in part with federal funds.

To this end, the District shall develop and utilize a comprehensive supplier diversity program (hereafter referred to as the “Program”) to implement this policy. The “Program”, ([click for “Program” here](#)) at minimum, shall provide a strategic methodology to promote equality, eliminate barriers to participation, and increase access to information for MWBEs.

A. Disparity Study and Program Evaluations

The validity of the Disparity Study upon which the Program is established shall be reviewed every five years. If at the end of five years the Board determines that the purpose of the Program has not been accomplished, a subsequent disparity study shall be commissioned.

Additionally, the Superintendent or his/her designee shall conduct periodic assessments to evaluate the effectiveness of the Program.

B. Annual and Project Specific Goal-Setting

In an effort to promote equality in the procurement process for MWBEs and SBEs, annual aspirational goals shall be approved by the Board no later than the beginning of each fiscal year.

Strategies for the awarding of contracts under this policy shall be developed by the Superintendent or his/her designee(s).

C. Good Faith Efforts

The District shall and will cause its contractors and subcontractors to make good faith efforts to achieve the MWBE and SBE contract participation goals set by the Board.

D. Outreach

The Superintendent or his/her designee shall implement strategies to (1) solicit participation of MWBEs and SBEs and (2) ensure that information regarding the Program is made available to employees and the community.

E. Training/Capacity-Building

Mandatory training shall be provided by the District to ensure that staff responsible for purchasing decisions are familiar with the MWBE Program requirements. Such training shall be provided (1) during onboarding of new employees and (2) at minimum on an annual basis. This policy, MWBE procedures manual, and relevant training shall be available electronically on the District's website.

The Superintendent or his/her designee shall provide capacity building opportunities for MWBEs and SBEs to strengthen their ability to successfully bid on and receive District contracts.

F. Commercial Non-Discrimination

The Board shall not discriminate on the basis of race, color, religion, sex, creed, age, disability, national origin, genetic information, or any otherwise unlawful use of characteristics in the award and performance of contracts; and shall not knowingly enter into a contract with any business that engages in discriminatory practices. This shall include, but may not be limited to discriminatory practices against its employees and vendors. Nothing herein shall be construed as to (1) prohibit or otherwise limit lawful efforts to remedy the effects of discrimination that have occurred or are occurring in the

marketplace; and/or (2) authorize expenditure of funds for goods and services apart from statutory and/or Board approved purchasing processes.

G. Sanctions

District employees and vendors (potential and actual) are expected to abide by all applicable laws/regulations and District policies/guidance. Failure to do so may result in disciplinary measures.

IV. RESPONSIBILITY

- A. The Superintendent is responsible for ensuring that a comprehensive program is developed and implemented which includes a specific program designed to carry out this policy.
- B. The office responsible for supplier diversity is responsible for actively seeking MWBEs and SBEs to do business with the Shelby County Board of Education and for complying with the provisions of this policy and the program implementation.
- C. The office responsible for supplier diversity shall provide quarterly and annual reports showing progress toward meeting the Board's established goals.
- D. The Superintendent is responsible for ensuring that this policy is followed.

Legal References:

- 1. 2 CFR 200.321
- 2. 49 CFR 26
- 3. T.C.A. 49-3-322

Cross References:

- 1. 2006 Purchasing Authority
- 2. 2012 Contract Requirement Approval and Signatory Authority
- 3. 2013 Professional Services Contracts
- 4. 4003 Conflicts of Interest
- 5. 2018 Fraud, Abuse, Waste

Shelby County Board of Education

2006

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01/31/17

04/26/16

03/25/14

06/25/13

PURCHASING AUTHORITY

I. PURPOSE

To ensure Memphis-Shelby County Schools are provided with goods and services at a fair and equitable cost; to fulfill the District's oversight responsibility of ensuring that resources are managed and allocated prudently in the best interest of students and the community while driving academic achievement and aligning with the goals of the Board and administration; and to provide the guidelines for interested parties to submit bids or Requests for Proposals (RFPs) for such goods and services.

Note: The manual for purchasing procedures is located on the District website at <http://www.scsk12.org/uf/procurement/files/2013/PS%20Manual%20SCS%2006252013.pdf>

II. SCOPE

This policy applies to the bid and purchase of goods such as supplies, furniture, fixtures, equipment, and material of every kind (including such purchases made by schools using site-based funding). It also applies to the purchase of services (see also, policy 2013 Professional Services), the lease of equipment and contracts for more than one year (including such purchases made by schools using site-based funding). In addition to the purchasing requirements set out in this policy, some purchases may also require a written contract. (See policy 2012 Contract Requirements, Approval, and Signatory Authority for contract requirements related to the purchase of goods and services.)

III. DEFINITIONS

- A. Non-Professional Service - Services of a general nature based on skill that is repetitive in nature, for which there is adequate competition in the marketplace to set a market price (e.g., painting, roofing, cleaning, etc.)
- B. Sole Source Provider – A supplier of goods and services exempt from the bid process in the absence of another supplier capable of performing the function of the sole source product or service.
- C. Single Source Provider – A single supplier of goods and services among others in a competitive marketplace which for an acceptable reason has predominant qualifications and unique attributes only possessed by that source. Factors that determine single source include availability of product, compatibility of product with existing District products, programs or resources, standardization of product with existing District products, programs or resources, and grant or contract requirements.
- D. Emergency Purchases - Emergency purchases are purchases made because of the existence of an emergency situation. An emergency situation is an unforeseen danger to life, health, safety, or property. The existence of such a situation creates an immediate and serious need for goods, services, or construction that cannot be met through normal procurement methods in a timely manner.
- E. Professional Services – Services provided by an individual or group of individuals with a professed expertise based on prolonged and specialized intellectual training over time which enables a particular service to be rendered. The term implies professional attainment in specialized knowledge as distinguished from mere skill. Professional services include, but are not limited to, insurance, auditing, accounting and financial services; professional development, business consulting services; educational consulting services; research services; seminar leaders; surveys and studies; legal services; medical services; technical services (e.g. technology); and software development.

IV. POLICY STATEMENT

In instances where federal and state purchasing requirements differ, the District shall adhere to the most restrictive requirement, unless otherwise provided in the applicable federal regulations.

A. Competitive Bid Requirements

All purchases of supplies, furniture, fixtures and material of every kind that are subject to the competitive bid requirements shall be purchased through the Board's Executive Committee (Chairperson and Superintendent). All single contracts for any of the aforementioned purchases exceeding one hundred thousand dollars (\$100,000) must be approved by the Board, except commodity products. Commodity products are defined as items normally used in the routine operation of the District. The Superintendent shall furnish the Board with a monthly report which includes commodity purchases and awards made pursuant to this policy that are equal to or in excess of one hundred thousand dollars (\$100,000) and maintain documentation on the District website that is readily available to the public (<http://www.scsk12.org/uf/procurement/tabulations.php>).

Specifically, competitive bid requirements apply to the purchase of equipment, supplies, materials and non-professional services according to the following guidelines:

Equipment, Supplies, and Materials – All purchases of supplies, furniture, fixtures, equipment, and material of every kind in excess of twenty-five thousand dollars (\$25,000),¹ including those of individual schools, shall be based on competitive bids.

Non-Professional Services – All contracts for non-professional services that exceed twenty-five thousand dollars (\$25,000) shall be based on competitive bids.

For all items subject to competitive bid, the requirements of the bid, the final award and, after the bid has been awarded, the amount of the bid award and name of bidder must be posted on the District website within 30 days of letting the contract.

For all items subject to competitive bid which exceed one hundred thousand dollars (\$100,000) the following information must additionally be provided on the District website, if applicable and/or obtainable:

- a. Total cost of purchase including any anticipated associated costs;
- b. Funding source;
- c. Sustainability of funding source;
- d. Number of students served and the student population in need of the item or service;
- e. Cost per student served and cost per total students in the school district;

- f. Cost for the previous three (3) years;
- g. Other options for addressing the need for the purchase;
- h. National annual cost trends for the past five (5) years;
- i. Measurable outcomes expected;
- j. Explanations for any assumptions (i.e., inflation rate) and any indices used (i.e., FCI);
- k. If the purchase relates to a “program”, the number of years the program will be needed.

A comprehensive vendor list for the purpose of soliciting competitive bids may be used; provided, that the vendors on the list are given notice to bid; and provided further, that the Purchasing Department shall at least annually advertise in a newspaper of general circulation in Shelby County for vendors and shall update the list of vendors following the advertisement. At anytime, however, a vendor may become a registered vendor by completing the application process through the District website. If a comprehensive vendor list is not used, bids shall be solicited by advertisement in a newspaper of general circulation in Shelby County, except that the newspaper advertisement may be waived in the event of emergency.

The bid process shall be provided in the MSCS Purchasing Manual in accordance with state law and Board policy. Unless governed by the policy on Local Preference Purchasing (#2011), the best and lowest bid shall be accepted, provided that the District reserves the right to reject any or all bids or any part of any bid and, if applicable, to accept that bid which is best as evidenced by reasons relative to the purpose of the purchase.

The bidder to whom the award is made may be required to enter into a written contract governed by the Contract Requirements, Approval, and Signatory Authority policy (#2012).

Splitting an order in order to avoid the use of bidding or other purchasing procedures is prohibited. Employees found in violation of this provision may be subject to discipline up to and including dismissal from employment.

Exceptions To Competitive Bidding

The following are exceptions to the competitive bidding requirement:

1. Professional service contracts such as contracts for legal services and educational consultants shall not be based upon competitive bids but shall be awarded on the basis of recognized expertise, competence and integrity or other unique qualities.³ This may be facilitated through a request for qualifications (RFQ) or request for proposals (RFP) process;

2. Liability Insurance purchased through a plan authorized and approved by any organization of governmental entities representing cities and counties;⁴
3. Purchases of goods or contracts for services from sole source and single source providers;
4. Purchases of equipment under the same terms of a legal bid initiated by any other Local Education Agency (LEA) in Tennessee.⁵ The District shall provide a rationale documenting a justifiable benefit to the District; or
5. Purchases of supplies, equipment, and services under a competitive bid issued by any municipality, county, utility district, or other local governmental unit of the state for the District (the “procuring entity”), such as applicable purchasing co-operatives, subject to the following requirements:
 - a. The purchases shall be made on the same terms and under the same rules and regulations as regular purchases of the procuring entity.
 - b. Where the District would otherwise be required to advertise and receive bids, it shall be sufficient for these purposes that the procuring entity has complied only with its own purchasing requirements.⁵
 - c. The District shall provide a rationale documenting a justifiable benefit to the District.

B. Purchasing Process

All purchases of less than twenty-five thousand dollars (\$25,000) may be made in the open market without newspaper notice, but shall, whenever possible, be based upon at least three (3) quotes. Such purchases are subject to the provisions outlined below.

Invoice Purchasing (Items up to \$500)

Individual purchases of five hundred dollars (\$500) or less in the aggregate do not require a purchase order prior to purchase and invoices for such purchases should be sent directly to the Memphis-Shelby County Schools Accounts Payable Office.

Exception:

The administrator responsible for federal programs has internal control over developing and approving non-purchase order expenditures, including equipment purchases. For all non-purchase order expenditures, the budget center manager and the management level above the budget center manager must approve invoices for payment, as provided in the Purchasing Manual and maintain documentation on the District website that is readily available to the public.

(<http://www.scsk12.org/uf/procurement/files/2013/PS%20Manual%20SCS%2006252013.pdf>).

Purchase Orders (Items over \$500)

All purchases over five hundred dollars (\$500) shall be by purchase order, and no purchase over five hundred dollars (\$500) shall be made nor payment approved unless covered by an approved purchase order, except for (i) emergency purchases as defined in this policy and approved by the Director of Purchasing or Superintendent's designee or (ii) financial transactions exempted from the purchase order process in accordance with this policy.

Emergency Purchases

Emergency purchases approved by the Director of Purchasing or Superintendent's designee may be made without a purchase order; however, these purchases shall be documented in accordance with procedures established by the Purchasing Department and approved by the Superintendent. If these purchases fall within the amounts that require Board approval, they shall be presented to the Board at the next regular meeting.

Financial Transactions Exempted From the Purchase Order Process

Certain financial transactions are exempted from the purchase order process and do not require a purchase order. Financial transactions exempted from the purchase order process include but are not limited to: payment of (i) athletic official fees and school reimbursements for sports; (ii) telephone service; (iii) utilities; (iv) service utilities; and (v) expense reimbursements to individuals. These and other such financial transactions shall be identified in the "Purchase Order Exemption List" approved by the Superintendent and located in the purchasing department and maintain documentation on the District website that is readily available to the public.

(<http://www.scsk12.org/uf/procurement/files/2014/Financial%20Transactions%20Exempted%20From%20the%20Purchase%20Order%20Process%2001.28.pdf>)

Expenditures and/or purchases made using the "Purchase Order Exemption List" shall be documented in accordance with procedures established by and approved by the Superintendent and/or his/her designee. Any other transactions not identified in the "Purchase Order Exemption List" must be processed using an invoice, a purchase order, procurement card, or as an emergency purchase, as defined by this policy.

Information Technology Acquisitions - Approval Required

All acquisitions of information technology (equipment, software, etc.) not on the MSCS approved standards list, through purchase, donation, or otherwise, must be approved in advance by the Purchasing Department.

Review of Internal Controls and Non-Purchase Order Expenditures

The Superintendent shall appoint an internal review committee, which shall include but not be limited to a representative from the department responsible for internal auditing and/or the Superintendent and/or his/her designee, to review the purchasing processes and procedures contained in the manual and recommend changes, if necessary. This committee shall also monitor internal controls related to the different types of purchases.

Purchases Requiring Board of Education Approval

Board of Education approval shall be required for all service contracts, including Professional Service Contracts, equal to or exceeding one hundred thousand (\$100,000); and contracts for purchases of supplies, furniture, fixtures, equipment, and material of every kind or service contracts, including Professional Service Contracts, extending beyond one year. Purchases shall not be broken down into individual components nor shall service contracts, including Professional Service Contracts, be divided for the purpose of falling outside these limits.

Purchases Not Requiring Board of Education Approval

Board of Education approval is not required for fund transfers, non-expenditure transactions, recurrent expenditures such as debt service, utilities and telephones, or master purchase orders where such expenditures have previously been approved and/or budgeted. Approval is not required for budgeted purchases of textbooks purchased through the State Depository or budgeted purchases of standardized testing materials. The Director of Purchasing or Superintendent's designee is authorized to issue purchase orders and/or authorize payments for expenditures not requiring Board of Education approval.

Disclaimer

Purchases made that are not in compliance with this policy may become the personal responsibility of the person making the purchase. The Board will not, under any circumstances, be responsible for payment for any services, equipment, furniture, fixtures, materials or supplies purchased by unauthorized individuals or in an unprescribed manner. Employees who authorize or contract for any obligation in violation of this policy or any other Board policy may be required to assume personal responsibility for the payment of the obligation and may be subject to discipline, up to and including dismissal from employment.

C. Presentation of Bids and Purchase Requests

In accordance with this policy, any request for the purchase of items and services equal to or exceeding one hundred thousand dollars (\$100,000) must be approved by the Board. When making a request to the Board for approval, administration shall provide specific information including, but not limited to the following:

- a. District goal the request serves;
- b. Measurable outcomes expected;
- c. Cost for the previous three (3) years, where applicable;
- d. Cost per student served, where applicable;
- e. Explanation of expected benefits and why specific item or service is the best purchase;
- f. Other options for addressing the need for the purchase;
- g. Sustainability Plan;
- h. Implementation Plan;
- i. Adverse impact on students and/or the district if not approved at the level requested; and
- j. Number and description of staff positions to be created, where applicable.

V. RESPONSIBILITY

- A. The "users" of services are responsible for furnishing an objective evaluation of their needs and for identifying the specifications of the services to be delivered.
- B. The Purchasing Department/Superintendent (or designee) is responsible for developing final specifications and obtaining all bids, request for proposals (RFP), and requests for qualifications (RFQ) for goods and services.
- C. The Purchasing Department/Superintendent (or designee) is responsible for issuing purchase orders for all approved purchases requiring a purchase order under this policy and for ensuring appropriate board approval procedures are followed in accordance with this policy.
- D. The Superintendent's designee and General Counsel are responsible for ensuring that procedures for reviewing contracts are developed.
- E. The Superintendent's designee and/or General Counsel are responsible for drafting, reviewing and, when necessary, revising the terms and conditions of the purchase order and bidding standards. This shall occur annually, periodically, or upon request of the Board, Superintendent, or the General Counsel; or upon the recommendation of the Purchasing Department.
- F. The Superintendent is responsible for making recommendations to the Board to approve the purchase of goods and the acquisition of all services meeting the requirements for Board approval.

G. The Superintendent is responsible for ensuring that this policy is adhered to.

Legal References:

1. TCA 49-2-203(a)(3)(A)
2. TCA 49-2-203(a)(3); TCA 49-2-203(a)(3)(A)(B); TCA 49-2-206
3. TCA 12-4-106
4. TCA 29-20-407
5. TCA 12-3-1004

Cross References:

1. 2012 Contract Requirements, Approval, and Signatory Authority
2. 2013 Professional Services Contracts
3. 2011 Local Preference Purchasing