

Bidding/Purchasing Requirements

The RSU 40 Board expects all purchases made by RSU 40 to be consistent with applicable laws and sound business practices. The Superintendent is responsible for developing and implementing administrative procedures for bidding and purchasing consistent with this policy.

This policy is intended solely as an internal guide to purchasing for RSU 40. It does not afford any vendor any property or contractual rights against the school unit. No vendor will have any enforceable rights against RSU 40 based upon this policy or alleged violations of this policy. No vendor will have any rights against RSU 40 until such time as a written contract between the vendor and RSU 40 is executed by the vendor and an authorized representative of RSU 40.

Bidding/Purchasing Required by Law

- A. Maine law requires the Board to competitively bid property and casualty insurance; school bus and transportation contracts in excess of \$4,000; certain school building construction, alterations and repairs over \$250,000 (except contracts for professional architectural and engineering services); bond anticipation notes for state-subsidized school construction projects; and lease purchase financings of buildings whose lease purchase costs qualify for state subsidy.
- B. The Superintendent is responsible for developing, updating as necessary, and implementing written administrative procedures (hereafter, the “Federal Procurement Manual”) to govern the procurement and purchase of property, goods, and services using any federal award that is subject to the Uniform Grant Guidance, codified at 2 CFR Part 200 (“UGG Federal Award”). The Federal Procurement Manual must be consistent with all applicable federal laws and rules.

A “federal award” is any federal financial assistance (including cost-reimbursement contracts) that RSU 40 receives either directly from a federal agency or indirectly from a pass-through entity such as the State education department (2 CFR § 200.38). Most, but not all, federal awards received by RSU 40 are subject to the Uniform Grant Guidance. To confirm whether a federal award is subject to the Uniform Grant Guidance, it is necessary to review the terms and conditions of the applicable grant agreement or cooperative agreement and the applicability provisions of the Uniform Grant Guidance, codified at 2 CFR § 200.101.

Notwithstanding any policy provision to the contrary, the procurement and purchase

of property, goods, and services using a UGG Federal Award, in whole or in part, must comply with the Federal Procurement Manual. Wherever this policy or any of RSU 40's administrative procedures are inconsistent with federal laws or rules, the provisions of the federal laws or rules will prevail.

Bidding/Purchasing Not Required by Law

Where bidding/purchasing is not required by law, it is the policy of RSU 40 to competitively bid purchases of equipment, supplies, materials or services over \$5,000 provided that it is practical and cost-effective to specify the materials or services with sufficient particularity to allow meaningful comparison of bids.

If competitive bidding is not utilized, the Superintendent may seek Requests for Proposals (RFP) for purchases equal to or over \$5,000. An RFP identifies the need RSU 40 intends to meet, but permits the vendor to propose the manner in which the work is to be performed and the materials to be used.

The Superintendent may forego the competitive bid or RFP process for purchases less than \$5,000, or when the Superintendent determines that quality, expertise, time factors, or other important considerations outweigh the possible benefits of bidding or requesting proposals. In each such case, the Board must be informed of the Superintendent's decision and the reasons for it.

Procedures for Bidding and Requesting Proposals

The method of notification that RSU 40 uses to solicit bids and proposals will be reasonably designed to attract qualified vendors. Depending upon the circumstances, such notification may include public advertising, mailing of notices to potential vendors, and/or telephone calls to potential vendors (in the case of RFPs).

Competitive Bid Procedures

Unless other bid procedures are required by law, RSU 40 will use the following procedures when soliciting competitive bids:

- A. The solicitation must specify the deadline for submitting bids and the time and place of bid opening. The solicitation will reserve the right of RSU 40 to reject any or all bids, to waive technical or immaterial non-conformities in bids if in the best interest of RSU 40, and to exercise judgment in evaluating bids.
- B. Bids must be in writing, sealed with outside envelope or wrapper plainly marked "Bid, not to be opened until (insert appropriate date)," and mailed or filed with the Superintendent of RSU 40.

- C. At the time and place stated in the public notice, and open to the public, all bids will be opened by the Superintendent or, in the Superintendent's absence or disability, by the Board Chair, or any Board member designated for the purpose by the Board Chair.
- D. Reading. If any members of the public who are not Board members or employees of RSU 40 are present, or if any representatives of the press are present, bids will, at that time, either be made available for examination by them or be read aloud in a manner to be heard plainly by those in attendance.
- E. The Board delegates to the Superintendent the authority to execute/award contracts and/or agreements for the procurement of goods and services on behalf of RSU 40 provided that such contracts and/or services do not come under the bidding/purchasing requirements enshrined in Maine Law (c.f. item A. on page 1), and are consistent with the Board's policies and budget. The Superintendent is encouraged to request specific approval from the Board for any contract/agreement which, in the judgment of the Superintendent, may be problematic.

The RSU 40 Board reserves authority to award contracts/agreements for which the bidding/purchasing requirements are enshrined in Maine Law.

RFP Procedures

Unless other RFP procedures are required by law, the RSU 40 will use the following procedures when soliciting requests for proposals:

- A. The solicitation will specify the deadline for submitting responses to the RFP and the time and place of proposal opening. The solicitation will reserve the right of RSU 40 to reject any or all proposals, and to waive technical or immaterial non-conformities in proposals if in the best interest of RSU 40, and to exercise judgment in evaluating proposals.
- B. Proposals should be submitted in plain envelopes clearly marked "Proposal, not to be opened until (state time and date)." The RFP will state the time and date that proposals will be opened, and no proposals will be opened before that time. Public opening is not required
- C. Proposals will be evaluated based on criteria appropriate for the project in question. The Board delegates to the Superintendent the authority to execute/award contracts and/or agreements for the procurement of goods and services on behalf of RSU 40 provided that such contracts and/or services do not come under the bidding/purchasing requirements enshrined in Maine Law (c.f. item A. on page 1) and

are consistent with the Board’s policies and budget. The Superintendent is encouraged to request specific approval from the Board for any contract/agreement which, in the judgment of the Superintendent, may be problematic.

The RSU 40 Board reserves the authority to award contracts/agreements for which the bidding/purchasing requirements are enshrined in Maine Law.

Legal Reference: 5 M.R.S. §1743-A (ALL)
20-A M.R.S. §1001(14), 5401(13)(D); 5402 (ALL)
20-A M.R.S. §1314 (MSAD)
20-A M.R.S. §1492 (RSU)
Maine Department of Education Rule Chapter 61 (Rules for Major Capital School Improvement Projects)
Maine Department of Education Rule Chapter 64 (Rules for Maine School Facilities Program and School Revolving Renovation Fund Program)
34 CFR parts 74 and 80 (Education Department General Administrative Regulations (“EDGAR”) (for federal awards made prior to 12/26/2014)
2 CFR part 200 (Uniform Administrative Requirements) (for federal awards made on or after 12/26/2014)

Cross Reference: BCB – Board Member Conflict of Interest

Adopted: October 5, 2017

Revised: January 3, 2019