

Resolution 2011-12: 66

Purchasing and Procurement Policy – Revised February 6, 2012

By Board Chairman Bell

WHEREAS, the Rochester School Facilities Modernization Program Act (“the Act”) established the Rochester Joint Schools Construction Board (“RJSCB”), a seven voting member board consisting of equal representation by the City of Rochester (“City”) and the Rochester City School District (“District”), as well as a member jointly selected by the City and the District; and

WHEREAS, under the Act, the RJSCB has certain enumerated powers to act as agent for the District, the City, or both; and

WHEREAS, the RJSCB wishes to revise its existing Purchasing and Procurement Policy in order to provide the necessary details and operative policy and instructions regarding the bid and contract award process for goods and services (other than professional services); and

WHEREAS, consistent with these wishes, the RJSCB has drafted proposed revisions to its Purchasing and Procurement Policy, a copy of which is attached to this resolution; and

WHEREAS, at the MWBE and Services Procurement Committee (the “Committee”) meeting on February 2, 2012, the Committee discussed and considered the revised Purchasing and Procurement Policy and approved it for consideration by the full Board;

THEREFORE, BE IT RESOLVED:

1. The RJSCB hereby approves and adopts in all respects the revised Purchasing and Procurement Policy.

Second by Board Member Pifer

Approved 6-0 with Member Underwood away

**ROCHESTER JOINT SCHOOLS CONSTRUCTION BOARD
PURCHASING AND PROCUREMENT POLICY
(REVISED FEBRUARY 6, 2012)**

PURPOSE

The Rochester Joint Schools Construction Board (the “Board”) was created by New York State to implement a Facilities Modernization Program (“FMP”). Specifically, Chapter 416 of the 2007 Laws of the State of New York (the “Enabling Legislation”) addressed the formation of the Board and authorized Phase I of the FMP. In fulfilling its duties, the Board acts as an agent of the City of Rochester and the Rochester City School District.

The Board has established this Purchasing and Procurement Policy (the “Policy”) in order to detail the operative policy and instructions regarding the award of certain Board purchasing and procurement contracts for goods and/or services. This Policy reflects the Board’s compliance with applicable laws, including the Enabling Legislation and Section 103 of the General Municipal Law. To the extent that any provisions in this Policy are inconsistent with applicable laws, any such inconsistent provisions shall be superseded by the applicable law.

In accordance with the Board’s Code of Ethics Policy and Article 18 of the General Municipal Law, no Board member shall have an interest in any contract entered into by the Board.

**ARTICLE 1
PROCUREMENT COMMITTEE**

1. Organization of Procurement Committee

All purchasing and procurement shall be implemented by the M/WBE and Services Procurement Committee (the “Procurement Committee”) comprised of the following members: the Chair of the Board, as chair of the Committee, and at least three but no more than five additional members appointed by the Chair.

The Procurement Committee may seek the assistance of the Board’s program manager (the “Program Manager”). The Administrative Director of the Board or such other designee appointed by the Chair (the “Procurement Officer”) shall provide administrative support to the Board and the Procurement Committee.

2. Role of Procurement Committee

The Procurement Committee shall be responsible for implementation of and compliance with this Policy. The Procurement Committee’s responsibilities with respect to such matters shall include:

- (a) obtaining and analyzing prices for materials, equipment and services;

- (b) compiling and maintaining a list of sources of supply for required items;
- (c) determining the quality/quantity requirements for a particular purchase and involving the Program Manager, as necessary;
- (d) in cases where technical equipment, specifications, plans or designs are involved, indicating its requirements and coordinating with the Program Manager to ensure quality control;
- (e) acting as a liaison with vendors;
- (f) reviewing invoices and handling accounts payable;
- (g) handling mechanical operations of purchasing, such as pricing, bidding, operating, expediting and making adjustments; and
- (h) keeping confidential all information and quotations submitted by competing vendors until an award.

ARTICLE 2
PROFESSIONAL SERVICE CONTRACTS

All professional services will be procured through a Request for Qualifications/Proposals (“RFQ/P”) process, which shall be developed and reviewed by the Board and counsel.

1. RFQ/P Process- Professional Services

The RFQ/P process shall be conducted as follows:

- (a) RFQ/P materials for the professional services in question shall be prepared by the Procurement Committee and submitted to the Board for approval.
- (b) The Procurement Officer shall disseminate the approved RFQ/P materials and coordinate with prospective persons or entities as necessary for each RFQ/P.
- (c) All RFQ/P responses shall be submitted to the Procurement Officer in accordance with the terms of the RFQ/P and this Policy.
- (d) The Procurement Officer will then submit the qualifying responses to the Procurement Committee for review and approval. Any members of the Board, at their discretion, may participate in the Committee’s review and approval process.

- (e) Once the Procurement Committee has reviewed the responses, the Committee shall select finalists and conduct interviews. The Committee shall conduct interviews of the finalists, unless the Committee makes a determination that interviews are not necessary to further the Board's goal of acquiring services in a cost-effective manner while promoting full and open competition among the finalists. In such case, the Committee will note this in its recommendation to the Board. Any members of the Board, at their discretion, may participate in the Committee's interview process.
- (f) The Procurement Committee shall conduct deliberations regarding each finalist and make a recommendation to the Board.
- (g) The Board will review the recommendation by the Procurement Committee and the RFQ/P responses of the candidates. Following its own deliberations, the Board will select the winning candidate and prepare a formal record that reflects the basis for its decision. The Board may conduct its deliberations in an executive session to the extent permitted by law.
- (h) The Board shall approve the award of the professional services contract by resolution at a Board meeting.
- (i) Notwithstanding the foregoing, the Board shall reserve the right to reject all proposals. The Board shall have the authority to issue a new RFQ/P if it deems the responses to the original RFQ/P are not in furtherance of its mission. The record shall reflect the basis for such determination.

2. **Qualifications and Selection Criteria for Certain Professional Services**

To the extent that the Enabling Legislation sets forth the qualifications needed for any professional services position being awarded, or the criteria to be considered in making the RFQ/P selection, the Board shall adhere to such instructions. The following summarizes the selection criteria in the Enabling Legislation with respect to the Program Manager, the Independent Compliance Officer and contractors, generally:

- (a) Program Manager: an independent program management firm with the skills necessary to assist the Board in: (a) developing and implementing procedures for the "projects" (as defined in the Enabling Legislation) undertaken and contracted for by the Board; (b) reviewing plans and specifications for projects; (c) developing and implementing policies and procedures to utilize employment resources to provide sufficient skilled employees for such projects, including developing and implementing training programs, if required; and (d) managing such projects. In addition, the Program Manager shall have experience in planning, designing, and constructing new and/or reconstructing existing school buildings, public facilities, commercial facilities, and/or infrastructure facilities, and in the negotiation and management of labor contracts and agreements, training programs, educational programs, and physical technological requirements for

educational programs. The Program Manager shall be qualified to manage all projects, review project schedules, review payment schedules, prepare cost estimates and assess the safety programs of contractors and all training programs, if required. The Program Manager shall be prepared to implement procedures to verify that all work for which payment has been requested has been satisfactorily completed.

- (b) Independent Compliance Officer: a person with an in-depth knowledge base and breadth of experience conducting minority and women-owned business enterprise (MWBE) and disadvantaged business enterprise (DBE) utilization compliance monitoring for public contracts within New York State, including school districts.

- (c) Contractors, generally: a contractor must be willing and able to: (a) where a project labor agreement is required, comply with all applicable New York law pertaining to public works projects under Article 8 of the Labor Law (including, where applicable, all prevailing wage requirements by the State Department of Labor); (b) furnish a labor and material bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials and a performance bond for the faithful performance of the project, in conformance with Section 103-f of the General Municipal Law; (c) provide sufficient evidence to the Board's satisfaction that such contractor has the financial and organizational capacity and subcontractors to perform the magnitude of work in question, a satisfactory record of performance of contractors and subcontractors on previous work, a satisfactory record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and a commitment to working with minority and women-owned business enterprises pursuant to article 15-A of the executive law through joint ventures or subcontractor relationships; and (d) for any contract in excess of one million dollars for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement, demonstrate that both the contractor and its subcontractors have participated in apprentice training programs in the trades of work it employs that have been approved for not less than three years by the State Department of Labor; have graduated at least one apprentice in the last 3 years; have at least one apprentice currently enrolled in such apprentice training program; and have demonstrated that the program has made significant efforts to attract and retain minority apprentices.

ARTICLE 3
OTHER CONTRACTS AND PURCHASING

The Board shall also be responsible for awarding all construction contracts and approving purchases of goods and services other than professional services. All purchases must be approved by the Board pursuant to a resolution of the Board. The Board or its designee will have the sole discretion to negotiate contract terms.

1. General Procedures

It is the goal of the Board to purchase competitively, without prejudice or favoritism, and to seek the maximum educational value for every dollar expended. Competitive bids or quotations shall be solicited in connection with purchases pursuant to applicable New York law. The General Municipal Law requires that purchase contracts for materials, equipment and supplies involving an estimated annual expenditure exceeding \$10,000 and public work contracts involving an expenditure of more than \$20,000 will be awarded only after responsible bids have been received in response to a public advertisement soliciting formal bids. Such an award shall be made by the Board to the lowest responsible bidder furnishing the required security after advertisement for sealed bids under Section 103 of the General Municipal Law. Similar procurements to be made in a fiscal year will be grouped together for the purpose of determining whether a particular item must be bid. Notwithstanding the foregoing, the Board shall reserve the right to reject all bids and readvertise for new bids.

Opportunities shall be provided to all responsible suppliers to do business with the Board. Suppliers whose place of business is situated within the City may be given preferential consideration only when bids or quotations on an item or service are identical as to price, quality and other factors. Purchases will be made through available State contracts of the Office of General Services or county contracts whenever such purchases are in the best interests of the Board. In addition, the Board will make purchases from correctional institutions and severely disabled persons through charitable or not-for-profit agencies, as provided by law. Further, the Program Manager, and its affiliates or subsidiaries, if any, shall be prohibited from awarding contracts or being awarded contracts for, or performing any work on, projects undertaken pursuant to the Enabling Legislation.

2. Exemptions

Goods and services that are not required by law to be procured through competitive bidding will be procured in a manner so as to ensure the prudent and economical use of public monies, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

Alternative proposals or quotations will be secured by the RFQ/P process, written or verbal quotations or any other appropriate method of procurement, except for

procurements (i) under a county contract, (ii) under a State contract, (iii) of articles manufactured in state correctional institutions (iv) or from agencies for the blind and severely disabled.

Further, the Board will not be required to secure alternative proposals or quotations for (i) emergencies where time is a crucial factor, in accordance with Section 103(4) of the General Municipal Law, (ii) procurements for which there is no possibility of competition (sole source items) or (iii) very small procurements when solicitations of competition would not be cost-effective.

3. **Board's Purchasing Objectives**

The Board's purchasing activity will strive to meet the following objectives:

- (a) to effectively supply needed materials, supplies, and contracted services at the lowest prices possible consistent with the quality and standards needed;
- (b) to ensure that all purchases fall within the framework of budgetary limitations and are consistent with the goals of the Board;
- (c) to maintain an appropriate and comprehensive accounting and reporting system to record and document all purchasing transactions; and
- (d) to ensure, through the use of proper internal controls, that loss and/or diversion of Board property is prevented.

4. **Bid Process - Goods and Services (Other than Professional Services)**

The bid process for goods and services will use substantially the same process as set forth above with respect to professional services. In addition, the bid responses will be received by the Procurement Officer of the Board to be opened at the time, place, and date stated in the notice or bid package. Bid openings will be public.

The Board's bid and contract award process for goods and services other than professional services shall be as follows:

- a) A notice to bid shall be advertised at least two weeks prior to the bid opening.
- b) Advertisement shall be in the District's official newspaper.
- c) Multiple purchases of the same item shall not be made for purpose of circumventing the bid threshold.
- d) All bids must be returned to the location stated in the notice or bid package.
- e) All sealed bids must be returned prior to the time stated in the notice or bid package.

- f) All sealed bids received by the Procurement Officer shall be time and date stamped and initialed upon receipt.
- g) No bid will be accepted if it is received after the time and date specified or it is not properly sealed. All late bids shall be returned to the vendor unopened. When necessary, a late bid may be opened in order to identify the bidder.
- h) Fax copies and e-mails of bid submittals shall not be accepted.
- i) Vendors shall be encouraged to bid as per the specifications outlined in the notice or bid package. Verbal instructions from anyone are not valid. Any change in requirements shall be made only by means of a written addendum.
- j) Sealed bids will be publicly opened and total prices read aloud at the time and place stated in the notice.
- k) The Procurement Officer shall retain custody of all proposals, samples, and bonds until an award has been made. Bids shall be maintained on file.
- l) All bids must be properly executed by the bidder.
- m) After being open and read, the proposals will be tabulated at the earliest possible time and a recommendation for award will be prepared by the Procurement Officer, with the assistance of the Program Manager, for approval by the M/WBE and Services Procurement Committee.
- n) The M/WBE and Services Procurement Committee will review the recommendation from the Procurement Officer and the Program Manager and will determine whether to approve the recommendation and to send the bid proposal to the full Board for approval.
- o) Bids and proposals may be rejected if they contain uncalled-for items, omissions and/or irregularities of any kind (except obvious mathematical errors). Bids must meet the specifications in order to be considered responsive. The RJSCB reserves the right to reject all bids for any reason.
- p) The RJSCB reserves the right to waive minor irregularities, reject any and all bids, advertise for new bids, proceed to do the work otherwise, or abandon the work if it is not in the best interest to proceed.
- q) A bidder may modify its bid after submission to the RJSCB but before the bid opening. In such a case, the vendor shall make certain that any new prices are reflected in any bid bond. After the bid opening, no bid may be modified. Upon request to the Procurement Officer and before an award has been made,

bidders can correct omissions from bids that do not affect the price, terms, and conditions of the bid.

- r) Bids may be withdrawn only if written notice is received by the Procurement Officer prior to the fixed time for opening bids.
- s) If, after the bid has been opened, a vendor discovers an error in its bid that affects the price (other than arithmetic errors) the vendor shall notify the Procurement Officer at once. The Procurement Officer shall review the problem and may seek assistance from the Program Manager. Except in extraordinary cases, the RJSCB shall require the bidder to abide by its bid or forfeit its bid security.

5. Documentation of Contract Award

The Board will provide justification and documentation of any contract awarded by any means other than the lowest responsible dollar offer, including setting forth the reasons why such award is in the best interests of the Board and otherwise furthers the purposes of section 104-b of the General Municipal Law.

The unintentional failure to fully comply with the provisions of section 104-b of the General Municipal Law or the Board's policies regarding procurement will not be grounds to void action taken or give rise to a cause of action against the Board.