

AW
Current Policy
8.12

PURCHASING

Reference: MCL 380.1267, 380.1274 et seq.

The Board of Directors desires to provide teachers and staff at the Academy with quality supplies, materials and equipment (collectively the "Materials") necessary to enable them to effectively and efficiently perform their task at the Academy.

The Board also desires to maintain the school facilities of the Academy (the "Facilities") in order to provide for the health and safety of the students and staff, and to provide an environment which is conducive to learning.

It is the Board's objective when acquiring materials, and in the maintenance, repair, renovation and construction (collectively, "repair") of the facilities, with Academy funds, to seek the lowest reasonable cost balanced against the quality of materials and the proper maintenance of the facilities, and the best interest of the Academy.

This policy is intended to comply with applicable state and federal law, which requires that the Academy comply with certain procedures before commencing certain repairs to the facilities, or before purchasing materials.

Accordingly, the following guidelines must be followed in connection with the purchase of materials or the repair of facilities:

1. General Guidelines

- 1.1 **Purchasing Agent.** The Board designates Charter School Administration Services, Inc., the Academy's Educational Service Provider, and its designee (the "Purchasing Agent"), to serve and act as purchasing agent for the Board.
- 1.2 **Authority of Purchasing Agent for Materials.** The Purchasing Agent will purchase such Materials as the Purchasing Agent deems reasonably necessary to administer and operate the Academy and to implement the Academy's educational program, and as necessary to implement the policies of the Board, within the budget established by the Board.
- 1.3 **Authority of Purchasing Agent for Facilities.** The Purchasing Agent will maintain the facilities of the Academy in such manner as the Board deems reasonably necessary to administer and operate the Academy and to implement the Academy's educational program, and as necessary to implement the policies of the Board, within the budget established by the Board.
- 1.4 **Payment for Materials and Repairs of Facilities.** Subject to Section 1.10, the Academy will pay for the cost of all Materials and all repairs of the Facilities and, if the cost of such Materials or repairs is incurred in the first instance by the Purchasing Agent and the Purchasing Agent incurred such costs while reasonably following the Purchasing Policy, then the Academy will reimburse the Purchasing Agent for such cost.

- 1.5 **Conflict of Interest Policies.** Each purchase of Materials and repair of Facilities is subject to the Academy's policies relating to conflicts of interest, which applies to members of the Board and to employees, officers, and directors of the Purchasing Agent and its related parties.
- 1.6 **Anti-Competitive Practices.** The Board and the Purchasing Agent will be alert to noncompetitive practices among contractors or vendors that restrict or eliminate competition or otherwise restrain trade. By way of illustration, any contractor or vendor that develops or drafts specifications, requests, statements of work, and invitations for bids or requests for proposals will be excluded from competing for such procurements.
- 1.7 **Unnecessary Purchases; Lease/Purchase Alternatives; Contract Termination Provisions.** The Academy and the Purchasing Agent will avoid purchasing unnecessary Materials. Further, the Academy and the Purchasing Agent will, where appropriate, analyze whether lease or purchase alternatives is more economical and practical for the Academy. Whenever possible, (a) any contract for the purchase or lease of Materials will contain a provision which allows the Academy to terminate the agreement on an annual basis, without penalty and without cause, and (b) any contract for longer than one year shall contain a provision permitting the termination of the contract upon the cessation of state school aid funding for the Academy.
- 1.8 **Discretion of Purchasing Agent.** Whenever this policy vests discretion in the Purchasing Agent to make procurement decisions, the Purchasing Agent will exercise reasonable judgment, acting in the best interest of the Academy, and will encourage competition among vendors.
- 1.9 **Additional Definitions.** For purposes of this policy:
 - a. "Maximum Amount" is the maximum dollar amount of purchases established in accordance with MCLA §380.1274. Such amount was \$12,500 during the 1995-1996 school year, and has been, and will continue to be, adjusted in each school year thereafter by the Michigan Department of Education. The Maximum Amount applicable for the 2003-2004 school year is \$17,932.]
 - b. "Federally Funded Project" is any purchase of Materials or any repair of Facilities funded in whole or in part by a grant from the United States for such purchase or repair.
 - c. "Federal Maximum Amount for Materials" is \$25,000.
 - d. "Federal Maximum Amount for Repairs" is \$100,000.
 - e. "Vendor" or "contractor" is any person or entity which provides, or is eligible to provide Materials for the Academy or repairs to the Facilities.
- 1.10 **Board Approval Required.** With the exception of emergencies where approval is only needed from one member of the Finance Committee, purchases totaling over ~~\$2,500~~ in the aggregate to one vendor per month for repairs and maintenance must be approved by the Finance Committee in advance of the purchase. In addition to any other requirements imposed by this Policy, the acquisition of materials, equipment and supplies on behalf of the Academy from a vendor in an amount exceeding ~~\$4,000~~ must be approved by the Finance

\$10,000

\$20,000

Committee in advance of the Purchase. Any proposed purchase subject to approval by the Finance Committee must be submitted with a copy of a formal quote, proposal, proposed contract or other similar document on the vendor's letterhead indicating the terms of the purchase before the Finance Committee shall consider such purchase.

2. Third Party Contractors and Service Providers

2.1 Authorization and Limitation

- a. Subject to this Purchasing Policy, the Purchasing Agent is authorized to negotiate and implement contracts, on behalf of the Academy, with service providers and vendors.
- b. All Contracts must be approved by the Boards attorney as to form before going into effect.
- c. Any contract over ~~\$10,000~~ ^{30,000} must be approved by the Board prior to becoming effective.
- d. Any contract subject to approval by the Board or Finance Committee must be proposed with a copy of a formal quote, proposal, proposed contract or other similar document on the vendor's letterhead indicating the terms of the contract before the Board or Finance Committee shall consider such contract.

2.2 Consortium Purchases

- a. The Purchasing Agent may negotiate and implement contracts with service providers and vendors under joint purchasing arrangements with other charter schools managed by the Purchasing Agent, whenever such joint purchases are in the best interests of the Academy. Such contracts remain subject to Section 2.1.

3. Purchasing Procedures

3.1 **Competitive Bidding.** It is the Board's desire to obtain vendor competition whenever practical. Competitive bids are not required:

- a. if the amount of the transaction does not exceed the Maximum Amount;
- b. if the Purchasing Agent reasonably determines that there is only one practical supply source (examples being an item for which competition is precluded by patent, copyright, secret process or monopoly; a film, manuscript or book; a utility service; or a captive replacement part or component);
- c. if the repair of the Facilities is normally performed by employees of the Academy or of the Purchasing Agent;
- d. for emergency purchases or for emergency repairs, which may arise as a result of an accident or unforeseen occurrence, or which could affect the life, health, welfare or safety of the Academy's students, staff or property; or,

- e. for items purchased through the cooperative bulk purchasing program operated by the Michigan department of Management and Budget pursuant to MCL 18.1263.

3.2 **Purchasing Considerations.** The Purchasing Agent will consider the following when acquiring Materials for the Academy with Academy funds:

- a. price;
- b. quality of the Materials, or of the repairs to the Facilities;
- c. service, delivery and maintenance of the Materials or the Facilities;
- d. suitability of the Materials or the repairs of the Facilities to the Academy's needs;
- e. conformity of the Materials or repairs to Facilities to specifications;
- f. past service of the vendor to the Academy;
- g. vendor reliability;
- h. the vendor's location relative to the Academy; and
- i. the additional considerations stated in section 3.3.

3.3 **Small Businesses, Michigan-Based Businesses, Minority-Owned Firms, and Women's Business Enterprises.** The Academy will make positive efforts to utilize small businesses, Michigan-based businesses, minority-owned firms, and women's business enterprises whenever possible. In this regard, the Academy and the Purchasing Agent will:

- a. ensure that such businesses are used to the fullest extent practicable;
- b. make information on forthcoming opportunities available, and arrange time frames for purchases and contracts, and facilitate participation by such businesses;
- c. consider in the contract process whether firms considered for larger contracts intend to subcontract with small businesses, Michigan-based businesses, minority-owned businesses, or women's business enterprises;
- d. encourage contracting with consortiums of such businesses when a contract is too large for one of them to handle individually; and
- e. use the services and assistance, as appropriate, of organizations such as the Small Business Administration and Department of Commerce's minority business development agencies in the solicitation and utilization of such businesses.

A Michigan-based business means a business that would qualify for a Michigan preference for procurement contracts under MCL 18.1268. This preference shall not apply to any procurement or project using Federal funds, nor shall it be used if it would violate any Federal law or requirements.

- 3.4 **Documentation.** The Purchasing Agent will obtain documentation with respect to the criteria in section 3.2 prior to purchasing Materials or repairing Facilities on behalf of the Board with Academy funds, unless the purchase is of a minor or emergency nature.
- 3.5 **Informal Quotations.** Subject to Section 1.10, the Purchasing Agent may use informal quotations (verbal information of price and terms on equal products or services) secured in person or by telephone or by means of other electronic communications to purchase ordinary supplies used by the Academy or Materials which are commodities and are readily available in the market place.
- 3.6 **Purchase Order System.** The Board authorizes the Purchasing Agent to develop and implement a purchasing order system as a means of budgetary control.
- 3.7 **Purchasing Rules and Regulations.** The Purchasing Agent may develop any rules or regulations necessary to implement this policy, including requisition and approval procedures, verifications of purchases, and verification that goods have been received in an acceptable condition.
- 3.8 **Consortium Purchases.** Subject to Section 1.10, Section 4, and Section 5, the Purchasing Agent may purchase Materials under joint purchasing arrangements with other charter schools managed by the Purchasing Agent, whenever such joint purchases are in the best interests of the Academy (under the considerations stated in Section 3.2).

4. **Competitive Bids**

4.1 **When Competitive Bids Are Necessary.** The Purchasing Agent will obtain competitive bids or competitive proposals before purchasing Materials, or contracting for repairs of Facilities, with Academy funds if the purchase price or cost, and an Item or a group of related items, exceeds the Maximum Amount, unless otherwise allowed by this Policy (inclusive of but not limited to section 3.1) and state statute or regulation.

4.2 **Competitive Bids or Comparable Processes.** The method for obtaining competitive bidding or competitive proposals will be determined by the Purchasing Agent, in its discretion, and such method need not include the issuance or advertisement of invitations for bid, an open bidding period, or sealed bids, unless the Purchasing Agent or the Board elects to use such methods for a particular procurement. However, the Board, in its sole discretion, retains the right to review and revise the competitive bidding and proposal process.

4.3 **Solicitation and Notice of Bids.**

The Purchasing Agent will determine the manner in which bids or proposals are solicited or obtained in connection with the purchase of Materials. Whenever competitive bidding is required in connection with the repair of Facilities, the notice of the time by when and place where the bids or proposals, or the response to a request for qualifications, will be received and opened will be published in a local newspaper of general circulation once a week for at least two weeks before the applicable deadline.

Competitive bids will be opened by the Purchasing Agent as stated in the bid advertising or in the invitation to bid quote. If no time and place is specified, the Purchasing Agent may open the bids at a time and place determined by the Purchasing Agent, in its discretion.

4.4 **Invitation for Bid Content.** The invitation for bid should generally include:

- a. notice that all information and bids submitted by bidders will be available for public inspection following award of the contract;
- b. instructions and information to bidders concerning bid submission requirements, including the time and date set for bid opening or bid evaluation, the address at which bids are to be received, the period during which bids will be accepted, and any other specific information;
- c. purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements;
- d. notice that the price evaluation criteria may include total life cycle cost and application benefits (which will be used as a criteria in the procurement of information systems and telecommunications systems);
- e. factors to be used in bid evaluations;
- f. contract terms and conditions, including warranty and bonding or other security requirements; and

- g. the name of the Purchasing Agent representative.
- 4.5 **Low Bid; Exceptions.** Subject to the factors in section 3.2, the lowest responsible and responsive bidder (as determined by the sole discretion of the Purchasing Agent) submitting a competitive price quotation or bid will ordinarily be awarded the contract. However, the Board delegates to the Purchasing Agent the right to accept or reject any bid when the Purchasing Agent feels it is in the best interest of the Academy to do so. In the case of repairs of Facilities, if all bids are rejected, the Purchasing Agent will re-advertise in the manner provided by law if the Academy elects to proceed with the repairs.
- 4.6 **Late Bids.** All bids received after the date and time specified by the Purchasing Agent will be returned to the bidder unopened. Changes in the amount or condition of the bid will not be allowed once the bid has been received.
- 4.7 **Alternate Bids.** Voluntary alternate bids submitted to the Purchasing Agent by a bidder will not to be considered in determining low bids. However, alternate bids may be negotiated after the successful bidder has been determined.
- 4.8 **Retention of Bids.** The Purchasing Agent will make available to the Board upon request the price quotations or competitive bids obtained from vendors for Materials or bidders for repairs of Facilities. This information will be retained by the Purchasing Agent until the audit for the fiscal year has been formally accepted by the Board.
- 4.9 **Security for Construction Bids.** Construction bidders shall be required to file security with the Academy or the Purchasing Agent in the amount of five percent (5.0%) of the amount of the bid, to secure the Academy from loss or damage by reason of the withdrawal of the bid or by failure of the bidder to enter into a contract for the performance if the bid is accepted by the Board. The Board or the Purchasing Agent may require additional assurances.
- 4.10 **Authority of Employees of Purchasing Agent.** In order to ensure compliance with these policies, and with applicable state and federal law, the Purchasing Agent will not make any purchase of Materials, or repair of Facilities, at a cost in excess of the Maximum Amount, unless and until the purchasing or bidding process for such purchase or repair has been reviewed and approved by one of the following officers of the Purchasing Agent:
- a. president;
 - b. vice-president and chief financial officer;
 - c. director of finance;
 - d. controller;
 - e. director of building and grounds; or
 - f. general counsel or legal counsel.

4.11 Board Approval of Award of Bid.

Whenever competitive bidding is required in connection with the purchase of Materials or the repair of Facilities at a cost in excess of the Maximum Amount, the Purchasing Agent may not expend funds for such purchase or repair until the purchase or repair, or the award of the applicable contract for the purchase or repair, has been approved by the Board. The Purchasing Agent is not required to obtain prior approval of the Board for any other purchase or repair, or enter into an applicable contract for such purchase or repair, so long as such expenditure is within the budget previously approved by the Board, and such purchase or repair is in compliance with this policy.

5. Federally Funded Projects

5.1 **Contract Provisions.** Any contract for the purchase of Materials in excess of the Federal Maximum Amount for Materials, and any contract for the repair of Facilities in excess of the Federal Maximum Amount for Repairs, in a Federally Funded Project must contain the contract provisions required under OMB Circular A-110, relating to such matters as remedies, termination, guarantees and bonding, and auditing.

5.2 **Applicable Federal Statutes.** Any contract for the purchase of Materials in excess of the Federal Maximum Amount for Materials, and any contract for the repair of Facilities in excess of the Federal Maximum Amount for Repairs, in a Federally Funded Project must contain provisions relating to, and the vendor or contractor must acknowledge the obligation to comply with, the following federal statutes:

- a. Equal Employment Opportunity;
- b. Copeland "Anti-Kickback Act";
- c. Davis-Bacon Act, including the provisions relating to the payment of prevailing wages;
- d. Contract Work Hours and Safety Standards Act;
- e. statutes and regulations relating to rights to inventions made under a contract and/or agreement;
- f. Clean Air Act and Federal Water Pollution Control Act;
- g. Byrd Anti-Lobbying Amendment; and
- h. statutes and regulations relating to debarment and suspension from Federally Funded Projects.

- 5.3 **Review by Counsel.** In order to ensure compliance with section 5, neither the Academy, nor the Purchasing Agent acting on behalf of the Academy, will enter into a contract for the purchase of Materials in excess of the Federal Maximum Amount for Materials, or a contract for the repair of Facilities in excess of the Federal Maximum Amount for Repairs, in a Federally Funded Project without the prior review of both counsel for the Board or counsel for the Purchasing Agent.

Adopted 6/2006
Revised 11/11