



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Table of Contents

Chapter One: General Information

- 1.01Mission Statement
- 1.02Definitions
- 1.03Article of Applicability
- 1.04 ...Basis for Purchasing Policies and Procedures
- 1.05Delegation of Procurement Authority
- 1.06Authority of Director of MCM
- 1.07Equipment Loan or Evaluation
- 1.08Public Review of Bids
- 1.09Purchases Made with Grant Funding
- 1.10Prepayments
- 10.0A..Payment for Goods or Services

Chapter Two: The Purchasing Organization

- 2.01Basis for Policies and Procedures
- 2.02Authority of the Director of MCM
- 2.03Delegation of Purchasing Authority
- 2.04Centralized Purchasing

Chapter Three: Source Selection & Contract Formation

- 3.01Bidder's List and Source Selection
- 3.02Competitive Sealed Bidding (IFB Process)
- 3.03Competitive Sealed Proposals (RFP Process)
- 3.04Procurement of Commodities
- 3.05Sole Source Procurement
- 3.06Emergency Procurement
- 3.07Procurement of Real Estate
- 3.09Types of Contracts
- 3.10Right to Audit Records
- 3.11Right to Inspect Plant
- 3.12Record Retention Policy
- 3.13Special Procurements
- 3.14Procurement of Used Equipment
- 3.15Employees as Vendors

Chapter Four: Specifications

- 4.01Specifications

Chapter Five: Procurement of Construction and Construction Consultant-Related Services

- 5.01 ..Lease, Buy, and Build

- 5.02...Construction Procurement

- 5.03...Bid Security
- 5.04...Performance and Payment Bonds
- 5.05...Changes in Construction Contracts
- 5.06...Architect, Engineer, Land Surveying and Related Services
- 5.07...Construction by District Employees
- 5.08...Alternative Construction Procurement Methods

Chapter Six: Contracts for Supplies and Services Modification and Termination

- 6.01...Contracts for Supplies and Services; Modification and Termination

Chapter Eight: Materials Management—Surplus

- 8.01...Delegation of Authority
- 8.02...Disposition of Surplus Materials
- 8.03...Employee Participation in Surplus Property Sale
- 8.04...Surplus Material Acquisition Programs
- 8.05...Fees and Charges
- 8.06...Reports

Chapter Nine: Legal and Contractual Remedies

- 9.01...Protest and Appeals of Contracts and Awards
- 9.02...Contract Claims and Dispute Resolution
- 9.03...Unauthorized Purchases

Chapter Ten: Intergovernmental Regulations

- 10.01...Cooperative and Joint Procurement

Chapter Eleven: Supplier Development Program

- 10.00...Supplier Development Program

Chapter Twelve: Ethics in Public Contracting

- 12.01...Code of Ethics
- 12.02...Conflict of Interest—Employees
- 12.03...Conflict of Interest—Consultants
- 12.03...Conflict of Interest—Consultants
- 12.04. .Purchasing for Employees and Private Individuals
- 12.05. Evaluation Committee Member Statement

Flagstaff Unified School District No. 1

Materials and Contract Management

"Policies and Procedures Manual"

Chapter One: General Information

1.01: Mission Statement

The mission for the MCM staff is to be the essential link between its internal customers (district employees) and external customers (vendors and community) by ensuring that programmed services are effectively, creatively and professionally performed, striving to achieve maximum value, and by maintaining compliance with Arizona Revised Statutes, the Arizona School District Procurement Codes, the Uniform System of Financial Records, FUSD's own policies, and all applicable federal requirements.

1.02: Definitions

1. "**Advantageous to the school district**" means in the best interest of the school district; does not necessarily mean lowest bid/cost.
2. "**Affiliate**" means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. It also may include persons doing business under a variety of names, or where there is a parent-subsidiary relationship between persons.
3. "**Application benefit**" means a quantified assessment of the benefits to be achieved in school district program and support areas by the information systems or telecommunications systems proposed by the vendor, including reasonably projected reductions in program costs and increases in productivity of school district personnel.
4. "**Architect services,**" "**engineer services,**" "**land surveying services,**" "**assayer services,**" "**geologist services**" and "**landscape architect services**" means those professional services within the scope of the practice of those services as provided in A.R.S. Title 32, Chapter 1, Article 1.
5. "**Bid sample**" means an item furnished by a bidder to show the characteristics of the item offered in the bid.
6. "**Bidder prequalification**" means determining in accordance with this Article that a prospective bidder or offeror satisfies the criteria for being included on the bidders' list.
7. "**Brand name or equal specification**" means a specification that uses one or more manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet school district requirements, and that provides for the submission of equivalent products.
8. "**Brand name specification**" means a specification limited to one or more items by manufacturers' names or catalogue numbers.
9. "**Business**" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.
10. "**Capability**" means capability at the time of contract award.
11. "**Change order**" means a written order which directs the contractor to make changes that the changes clause of the contract authorizes the governing board to order.
12. "**Chief Procurement Officer**" means the Director of Materials and Contract Management.
13. "**Clergy**" means a minister of a religion.
14. "**Construction**" means the process of building, altering, repairing, improving or demolishing any public structure or building, or other public improvements of any kind to any public real

Flagstaff Unified School District No. 1

Materials and Contract Management

"Policies and Procedures Manual"

- property. Construction does not include the routine operation, routine repair or routine maintenance of existing structures, buildings or real property.
15. **"Contract"** means all types of agreements, including purchase orders, regardless of what they may be called, for the procurement of materials, services or construction or the disposal of materials.
 16. **"Contract modification"** means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.
 17. **"Contractor"** means any person who has a contract with a school district.
 18. **"Cooperative purchasing"** means procurement conducted by, or on behalf of, more than one public procurement unit.
 19. **"Cost"** means the aggregate cost of all materials and services, including labor performed by force account.
 20. **"Cost analysis"** means the evaluation of cost data.
 21. **"Cost data"** means information concerning the actual or estimated cost of labor, material, overhead and other cost elements that have been actually incurred or that are expected to be incurred by the contractor in performing the contract.
 22. **"Cost-plus-a-percentage-of-cost contract"** means a contract that, prior to completion of the work, the parties agree that the fee will be a predetermined percentage of the total cost of the work.
 23. **"Cost-reimbursement contract"** means a contract under which a contractor is reimbursed for costs which are reasonable, allowable and allocable in accordance with the contract terms and the provisions of this Article, and a fee, if provided for in the contract.
 24. **"Data"** means documented information, regardless of form or characteristic.
 25. **"Days"** means calendar days and shall be computed pursuant to A.R.S. § 1-243.
 26. **"Debarment"** means an action taken under R7-2-1161 et seq., to prohibit a person from participating in school district procurements.
 27. **"Defective data"** means data that is inaccurate, incomplete or noncurrent.
 28. **"Dentist"** means a person defined in A.R.S. § 32-1202 who also is licensed pursuant to A.R.S. Title 32, Chapter 11.
 29. **"Descriptive literature"** means information available in the ordinary course of business that shows the characteristics, construction or operation of an item offered in a bid or proposal.
 30. **"Designee"** means the governing board member or school district employee who has been delegated procurement authority by the governing board as specified by board action.
 31. **"Detailed record"** means minutes, which shall include the date, time, place, persons in attendance and a summary of what was said by whom and the decisions made. The minutes may be made either in writing or by a recording.
 32. **"Discussions"** means an exchange of information or any form of negotiation.
 33. **"District representative"** shall be a district employee who has been most closely involved in the procurement being protested or shall be the governing board. There may be more than one appointed for different purposes and different procurements.
 34. **"Earth-moving, material-handling, road maintenance and construction equipment"** means a track-type tractor, motor grader, excavator, landfill compactor, wheel tractor scraper, off-highway truck, wheel loader or track loader having a published manufacturer's minimum unit list price of \$50,000 or more and a minimum expected life cycle of three years.
 35. **"Eligible procurement unit"** means a public procurement unit or a nonprofit educational or public health institution.
 36. **"Employee"** means an individual drawing a salary from a school district and any non-compensated individual performing personal services for any school district.
 37. **"Excess materials"** means any materials which have a remaining useful life but which are no longer required by the using district in possession of the materials.
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Flagstaff Unified School District No. 1

Materials and Contract Management

"Policies and Procedures Manual"

38. **"Expendable materials"** means all tangible materials other than nonexpendable materials.
39. **"Fair market value"** means the price at which sales have been consummated for assets of like type, quality, and quantity in a particular market at the time of acquisition.
40. **"Filed"** means delivery to the district representative, school district or its hearing officer, whichever is applicable. A time/date stamp affixed to a document by the school district shall be determinative of the time or delivery for purposes of filing.
41. **"Finished goods"** means units of manufactured product awaiting sale.
42. **"Force account"** means work performed by the school district's regularly employed personnel.
43. **"Governing board"** has the meaning defined in A.R.S. § 15-101(7).
44. **"Incremental award"** means an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required.
45. **"Information systems"** means a system of hardware, software or vendor support costing more than \$100,000 that processes information or data by electronic data processing methods and devices.
46. **"Interested party"** means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract or by the failure to award a contract. Whether an actual or prospective bidder or offeror has an economic interest will depend upon the circumstances of each case.
47. **"Invitation for bids"** means all documents, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in R7-2-1024.
48. **"Legal counsel"** means a person licensed as an attorney pursuant to rules of the Arizona Supreme Court, Vol. 17A, A.R.S.
49. **"Life cycle"** means the useful life of the information systems, telecommunications systems or equipment to the original using school district to perform the application for which it was initially procured.
50. **"Local public procurement unit"** means any political subdivision and any agency, board, department, or other instrumentality of such political subdivision.
51. **"Materials"** means all property, including equipment, supplies, printing, insurance and leases of property, but does not include land, a permanent interest in land or real property or leasing space.
52. **"May"** denotes the permissive.
53. **"Minor informality"** means mistakes, excluding judgmental errors, that have negligible effect on price, quantity, quality, delivery or other contractual terms and the waiver or correction of such mistake does not prejudice other bidders or offerors.
54. **"Multiple award"** means an award of an indefinite quantity contract for one or more similar materials or services to more than one bidder or offeror.
55. **"Multistep sealed bidding"** means a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the school district and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
56. **"Nonexpendable materials"** means all tangible materials which have an original acquisition cost over an amount set by regulation and a probable useful life of more than one year.
57. **"Nonprofit educational or public health institution"** means any educational or public health institution, no part of the income of which is distributable to its members, directors, or officers.
58. **"Outright purchase"** means the initial cost to the school district for the earth-moving, material-handling, road maintenance and construction equipment or any other equipment, including all vendor charges and financing costs.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

59. **"Paper"** means newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and related types of cellulosic material containing not more than 10% by weight or volume of noncellulosic material such as laminates, binders, coatings or saturants.
60. **"Paper product"** means paper items or commodities, including paper napkins, towels, corrugated paper and related types of cellulosic products containing not more than 10% by weight or volume of noncellulosic material such as laminates, binders, coatings or saturates.
61. **"Person"** means any corporation, business, individual, union, committee, club, other organization or group of individuals.
62. **"Physician"** means a person licensed pursuant to A.R.S. Title 32, Chapter 13 or 17.
63. **"Post-consumer material"** means a discard generated by a business or residence that has fulfilled its useful life. Post-consumer material does not include discards from industrial or manufacturing processes.
64. **"Posted prices"** means the sale price determined by the school district to be fair market value.
65. **"Price analysis"** means the evaluation of price data.
66. **"Price data"** means information concerning prices, including profit, for materials, services or construction substantially similar to those being procured under a contract or subcontract. In this definition, "prices" refers to offered or proposed selling prices, historical selling prices or current selling prices of the items being purchased.
67. **"Procurement"** means buying, purchasing, renting, leasing or otherwise acquiring any materials, services or construction. Procurement also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
68. **"Procurement Card"** means a credit card type instrument used generally for procuring low-dollar, high volume goods and services. Also known as a "purchasing card or "p-card."
69. **"Proprietary specification"** means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell such material and excludes other material with similar quality, performance or functional characteristics from being responsive to the solicitation.
70. **"Public procurement unit"** means either a local public procurement unit, the Arizona Department of Administration, or any other state or an agency of the United States.
71. **"Purchase description"** means the words used in a solicitation to describe the materials, services or construction for purchase and includes specifications attached to, or made a part of, the solicitation.
72. **"Purchase request"** or **"purchase requisition"** means that document, or electronic transmission, whereby a school district requests that a contract be entered into for a specific need, and may include, but is not limited to, the description of the requested item, delivery schedule, transportation data, criteria for evaluation, suggested source of supply and information supplied for the making of any written determination required by this Article.
73. **"Qualified products list"** means an approved list of materials described by model or catalogue numbers that, prior to competitive solicitation, the governing board has determined will meet the applicable specification requirement.
74. **"Recycled paper"** means paper products which have been manufactured from materials otherwise destined for the waste stream and which contain at least 40% recovered wastepaper with 10% of that being post-consumer material.
75. **"Request for proposals"** means all documents, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in R7-2-1042.

Flagstaff Unified School District No. 1

Materials and Contract Management

"Policies and Procedures Manual"

76. **"Residual value"** means the guaranteed minimum market value of the earth-moving, material-handling, road maintenance and construction equipment or any other equipment at the end of the life cycle of the equipment being procured, as determined by a guaranteed minimum value offered by the vendor or other parties in its bid.
77. **"Responsible bidder or offeror"** means a person who has the capability to perform the contract requirements and the integrity and reliability which will assure good faith performance.
78. **"Responsive bidder or offeror"** means a person who submits a bid which conforms in all material respects to the invitation for bids or request for proposals.
79. **"School district"** has the meaning defined in A.R.S. § 15-101(15), whose authority is exercised by the governing board or its designee.
80. **"Shall"** denotes the imperative.
81. **"Services"** means the furnishing of labor, time or effort by a contractor which does not involve the delivery of a specific end product other than required reports and performance. **"Services"** does not include employment agreements or collective bargaining agreements.
82. **"Solicitation"** means an invitation for bids, a request for technical offers, a request for proposals, a request for quotations or any other invitation or request by which the school district invites a person to participate in a procurement.
83. **"Specification"** means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery.
84. **"Specification for a common or general use item"** means a specification that has been developed and approved for repeated use in procurements pursuant to R7-2-1102(A).
85. **"Specified professional services"** means services of an architect, engineer, land surveyor, assayer, geologist and landscape architect.
86. **"Standard commercial material"** means material that, in the normal course of business, is customarily maintained in stock or readily available by a manufacturer, distributor or dealer for the marketing of such material.
87. **"Surplus materials"** means any materials that no longer have any use to the school district or materials acquired from the United States government. This includes obsolete materials, scrap materials and nonexpendable materials that have completed their useful life cycle.
88. **"Suspension"** means an action taken by the governing board under R7-2-1168 temporarily disqualifying a person from participating in school district procurements.
89. **"Technical offer"** means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications and its terms and conditions.
90. **"Telecommunications systems"** means systems costing more than \$100,000, including but not limited to all instrumentalities, facilities, apparatus and services, for the transmission and reception of messages, impressions, signs, signals, pictures, sounds or any other symbols by wire, radio, optical cable, electromagnetic or other similar means.
91. **"Total cost"** means total cost as defined in A.R.S. § 15-213(F).
92. **"Total life cycle cost"** means vendor costs, total school district costs and financing costs throughout the life cycle of the information systems or telecommunications systems being purchased or any other equipment purchased less residual value.
93. **"Total school district costs"** means costs to the school district for the information systems or telecommunications systems including energy, facilities, repair costs, present value of monies, vendor charges, personnel costs and all other identifiable school district costs.
94. **"Vendor charges"** means costs of all vendor support, materials, transportation and all other identifiable costs associated with the vendor's proposal or bid.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

95. **"Vendor costs"** means costs of all hardware, materials, software, transportation, vendor support and all other identifiable costs associated with the vendor's proposal or bid.
 96. **"Vendor support"** means services provided by the vendor for items such as consulting, education, training, management of the information systems or telecommunications systems or any other systems purchased, systems planning, development, integration and maintenance and training.
 97. **"Wastepaper"** means recyclable paper and paperboard, including high-grade office paper, computer paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and corrugated paper.
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LEGAL REFERENCES

- *Article 10, School District Procurement, Arizona Administrative Codes, R7-2-1001*
- *FUSD Policies and Procedures*

Section 1.03---Article of Applicability

This Article applies to every expenditure of public monies, including federal assistance monies, by a school district as specified in A.R.S. § 15-213(A) for the procurement of all construction, materials and services when the total procurement cost exceeds the maximum amount specified in A.R.S. § 15-213(A)(1), as adjusted by the State Board of Education, in accordance with A.R.S. § 15-213(F). If procurement involves the expenditure of federal assistance or contract monies, the school district shall comply with federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in this Article. This Article does not apply to agreements pursuant to A.R.S. § 15-789 or grants or contracts between governing boards, except as provided in Sections R7-2-1191 through R7-2-1195. This Article also applies to the disposal of school district materials regardless of value. Nothing in this Article shall prevent any governing board from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement. [A.R.S. § 15-271(C)(3) requires the Auditor General in the Uniform System of Financial Records to prescribe guidelines applicable to procurement practices for use by school districts for amounts less than those prescribed in A.R.S. § 15-213(A) and (F), as described in this subsection.]

Unless displaced by the particular provisions of this Article, the principles of law and equity, including the Uniform Commercial Code of this state, the common law of contracts as applied in this state and law relative to agency, fraud, misrepresentation, duress, coercion, and mistake supplement the provisions of this Article.

Expenditures from student activity monies as defined in A.R.S. § 15-1121, if no district funds are involved, are exempt from this Article.

LEGAL REFERENCES

- *A.R.S. §15-213*
 - *U.C.C. of Arizona pursuant to A.R.S., Title 47*
 - *A.A.C. R7-2-1002*
 - *U.S.F.R. VI-G (1-23)*
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Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Section 1.04---Basis for Purchasing Policies and Procedures

All procurement conducted by the District is governed by the following:

- A. Arizona State Statutes: Pursuant to §15-213(A)
- B. Arizona Administrative Rules: R7-2-1001 through R7-2-1195
- C. Uniform Commercial Code for the State of Arizona, under A.R.S. Title 47
- D. Uniform System of Financial Records: Expenditures, VI-G (1-23)
- E. District Administrative Policies and Procedures: These are based and developed pursuant to generally acceptance business practices, and are written to comply with all applicable statutes and rules as outlined above.

Procedure 1.04

The Director of Materials and Contract Management will formulate procedures that comply with A.R.S. §15-213, A.A.C. R7-2-1001 through R7-2-1195, the USFR for Expenditures under Section VI-G (1-23), as well as develop procedures that serve the best interests of the District by following generally acceptance business practices.

LEGAL REFERENCES

- A.R.S. §15-213
- U.C.C. of Arizona pursuant to A.R.S., Title 47
- A.A.C. R7-2-1001 through R7-2-1195
- U.S.F.R. VI-G (1-23)

Section 1.05---General Provisions

- A. A school district shall not award a contract or incur an obligation if sufficient funds are not available for budgeting.
- B. Any bid or proposal that is conditioned upon award to the bidder or offeror of both the particular contract being solicited and another school district contract shall be deemed nonresponsive or unacceptable.
- C. Except by mutual consent of the parties to the contract, no rule in this Article may change any commitment, right or obligation of a school district or of a contractor under a contract in existence on the effective date of the rule.
- D. Rights and duties arising from a school district contract may only be transferred, waived or assigned upon the express written consent of both parties

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Procedure 1.05

The Director of Materials and Contract Management will develop procedures that comply with A.A.C. R7-2-1003 that serve the best interests of the District by following generally acceptance business practices.

LEGAL REFERENCE

- A.A.C. R7-2-1003

Section 1.06---Written Determination

- Written determinations shall be retained by the school district and shall specify the reasons for the determination.
- The school district is authorized to prescribe methods and operational procedures to be used in preparing written determinations.

Procedure 1.06

The Director of Materials and Contract Management, or his/her assigned representative, shall provide written documentation identifying the determination and justification for specific actions that comply with R7-2-1004. Written determination will generally be in memorandum formats, filed and maintained in an appropriate manner.

LEGAL REFERENCE

- R7-2-1004. *Written Determinations*

Section 1.07---Confidential Information

- If a person believes that a bid, proposal, offer, specification, or protest contains trade secrets or other proprietary data that should remain confidential and should not be disclosed as otherwise required by A.R.S. § 39-121, a statement advising the school district of this fact shall accompany the submission and the information shall be so identified wherever it appears.
- The information identified by the person as confidential shall not be disclosed until the school district makes a determination, as provided in subsection (C) of this Section.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- C. The school district shall review the statement and information and shall determine prior to the contract award, whether the information shall be withheld.
- D. If the school district determines to disclose the information, the school district shall inform the bidder in writing of such determination.

Procedure 1.07

The Director of Materials and Contract Management shall provide written documentation, generally in standard solicitations---Requests for Proposals (RFP) and Invitation for Bids (IFB)---that specific information provided by the proposing or offering party shall clearly identify sections that are confidential before and after the receipt, and during the opening and recording of the proposal or offer. This is pursuant to R7-2-1005, R7-2-1029, R7-2-1042 and all other applicable codes.

LEGAL REFERENCES

- *R7-2-1005, R7-2-1029, R7-2-1042 and all other applicable codes*

Section 1.08---Procurement Advisors

- A. The school district may appoint an advisor or advisors to assist with respect to specifications or procurement in specific areas.
- B. Advisors are not eligible to receive compensation but are eligible for reimbursement of expenses consistent with A.R.S. Title 38, Chapter 4, Article 2.
- C. A procurement advisor who participates in any aspect of a specific procurement shall be prohibited from receiving any benefit directly or indirectly from a contract for such procurement. For the purpose of this Section a vendor who provides a set of specifications is not an advisor.
- D. Specifications prepared by a procurement advisor shall comply with Sections R7-2-1101 through R7-2-1105.
- E. The school district shall not delegate to a procurement advisor the authority for the award or administration of any particular contract, or over any dispute, claim or litigation pertaining thereto.

Procedure 1.08

The Director of Materials and Contract Management will develop guidelines relating to procurement advisors that comply with A.A.C. R7-2-1007, thereby avoiding the possibility or perception of a conflict of interest.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

LEGAL REFERENCES

- A.R.S. Title 38, Chapter 4, Article 2
- A.A.C. R7-2-1007, R7-2-1101 through R7-2-1105

Section 1.09---Change Orders

A change order which increases the contract amount in excess of \$15,000 or 5% of the contract amount, whichever is greater, may be executed if the governing board determines in writing that the change order is advantageous to the school district.

Procedure 1.09

The Director of Materials and Contract Management, as a delegated board representative identified in Section 1.08 above, will have procurement authority to increase contract amounts in excess of \$15,000 or 5% of the contract amount, whichever is greater, on all awards less than \$500,000 for contracts not established by means of cooperative purchasing---such as State contracts---and having made a determination in writing that the change order is advantageous to FUSD.

LEGAL REFERENCES

- A.A.C. R7-2-1008

Section 1.10---Proprietary Specifications

The school district shall not use specifications in any way proprietary to one supplier unless the specification includes a statement of the reasons why no other specification is practicable, a description of the essential characteristics of the specified product and a statement specifically permitting an acceptable alternative product to be supplied.

Procedure 1.10

The Director of Materials and Contract Management shall ensure that specifications that are proprietary to one supplier are avoided, unless the Director provides a written determination of the reasons why no other specification is practicable.

LEGAL REFERENCES

- A.A.C. R7-2-1009

Section 1.11---Recycled Products Use

- A. If the price of a recycled paper product which conforms to specifications is within 5% of a low bid product which is not recycled and the recycled product bidder is otherwise the lowest responsible and responsive bidder, the award shall be made to the bidder offering the recycled product.
- B. Specifications shall emphasize functional or performance criteria which, to the extent practicable, do not discriminate against the use of recycled materials. Considerations to specific warranties that prohibit recycled materials used in a variety of equipment (such as copiers or printers) are considered acceptable provisions for denying award for recycling materials.

Procedure 1.11

The Director of Materials and Contract Management shall provide 5% bid differential preferences for recycled materials when those recycled materials conform to the specifications in the solicitation, including those meeting equipment warranty specifications.

LEGAL REFERENCES

- A.A.C. R7-2-1010

Section 1.12---Dollar Limits and Requirements

Procurement transactions, and the rules that govern how they are managed, are based upon aggregate dollar amount and type of purchase. The guidelines are as follows:

1.12A Purchases for \$100,000 and Greater Amounts; The Invitation for Bids (IFB) Process

Purchasing transactions at or above \$100,000 require competitive, sealed bidding utilizing the Invitation for Bid (IFB) process. (See 302; Competitive Sealed Bidding.), or Request for Proposals method.

1.12B Purchases for \$100,000 and Greater Amounts; The Request for Proposals Process

Purchasing transactions at or above \$100,000 in which it is determined not to be advantageous or practical to use the sealed bidding process, may be purchased through the use of sealed competitive proposals. This is the Request for Proposal (RFP)

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

process. The threshold limit of \$100,000 is realized for all purchases annually for a single vendor. (See 3.03; Competitive Sealed Proposals.)

1.12C Purchases from \$10,000 to Under \$100,000

Purchasing transactions from \$10,000 to under \$99,999 shall be made with as much competition as is practical and deemed necessary by the Director of Materials and Contract Management.

A minimum of three written quotations will be obtained. Supporting documentation and price quotations are maintained as part of the purchasing file, including completion of the District’s Quotation Worksheet.

1.12D Purchases of less than \$10,000

Annual purchasing transactions of less than \$10,000 to a single are not subject to the competitive process. End-users, however, are required to exercise practical means and good business judgment when seeking the best pricing for goods or services that conform to specifications and other requirements. (See 1.05; Purchasing Documents.)

1.12E Splitting Purchases

Purchasing transactions are not to be artificially divided or fragmented in order to meet the lesser requirements of lower dollar transactions.

1.12F Confidentiality of Price and Other Information

In accordance with R7-2-1029 and R7-2-1045 price and other confidential information provided by vendors shall not be shared with competitors by any individual involved in the process. This includes requisitioners, reviewers, and MCM staff.

Procedures 1.12

1.12A & B Purchases at or above \$100,000

MCM will initiate competitive sealed bidding under the guidelines of the Arizona Administrative Codes for the Invitation for Bid (IFB) process, or for the Request for Proposals method.

1.12C Purchases from \$10,000 to Under \$99,999

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Purchasing transactions from \$10,000 to under \$99,999 shall be made with as much competition as is practical and deemed necessary by the Director of Materials and Contract Management.

A minimum of three written quotations will be obtained by the requisitioning department from vendors. Supporting documentation and price quotations are maintained as part of the purchasing file, including completion of the District’s Quotation Worksheet.

In all competitive procurement, the award is made by the Materials & Contract Management to the vendor with the lowest prices for the good or service that conforms to specifications and other requirements.

1.12E Purchases of less than \$10,000

Annual purchasing transactions of less than \$10,000 to a single vendor are not subject to the competitive process. However, end-users are required to exercise practical means and good business judgment when seeking the best pricing for goods or services that conform to specifications and other requirements.

LEGAL REFERENCES

- A.A.C. R7-2-1029 and R7-2-1045
- U.S.F.R. VI-G (1-23)

Section 1.13: Purchasing Documents

Three purchasing documents are legal and binding upon the District, the standard purchase order (PO), Blanket Purchase Order (BPO) and the Independent Contractor Agreement (ICA).

- 1) The **Purchase Order (PO)** (indicated as a “P” PO in IFAS) is issued by Purchasing and has the signature of an authorized employee of the Materials & Contract Management (MCM). The necessary information is provided on the requisition to enable the MCM to generate a PO. The “P” PO is designed to address products that require processing through the property management system, such as electronic equipment above \$500, items in excess of \$1,000, and receiving transactions must be performed in these cases before Accounts Payable can generate a check. Note: the requisition number is not to be used to place orders.
- 2) The **Blanket Purchase Order (BPO)** is used for purchases of \$10,000 or less, as an aggregate of all District POs. The BPO allows the user to make direct contact with a vendor, obtain prices and place orders. The BPO is not intended to replace the normal requisitioning procedure except in well-defined and limited situations. Examples of limitations imposed on LPO’s are:



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- A. BPO's are to be used for the one time purchase of goods or services in which the supplier will ship and bill complete. No back orders and no split shipments.
- B. BPO's are under the jurisdiction of the Fiscal Agent or designee.

The Blanket Purchase Order is a document issued to a vendor for purchase of certain classes or categories of items.

The Blanket Purchase Order may spell out terms, conditions, delivery information and other contract information, including pricing or discounts from published lists for a specific period of time. A "Not to Exceed" amount and "PO Expires on 6/30/xx" is listed on the Blanket Purchase Order document as a method of monitoring and control. Additional controls relative to maximum one-time purchases or single item costs may also be included.

Blanket Purchase Orders are used to serve the needs of the requisitioner and to reduce paperwork on items bought repetitively. They may be used for commodity type purchases, such as maintenance supplies, food, utilities or for services such as miscellaneous repairs. If the number of items, such as repair parts or food supplies, is too lengthy to list, a group or class of commodities can be named on the Blanket Order. Blanket Orders are not to be used to purchase capital items.

The blanket order is only valid for the specified period of time as indicated on the order and for amount it is funded. Once the effective period has passed or the funding has been depleted the order is no longer valid. To preclude any issues with people overspending the blanket orders, strict attention to the expiration date and the declining balance of funds should be closely monitored. As always, as the remaining balance drops and the requirement still exists for the Blanket PO, funds can be added. However, overspending a Blanket Purchase order is subject to the same process as any other unauthorized purchase.

The amount of competition needed on a Blanket Order varies according to commodity, service and/or delivery as well as location of the supplier to the requisitioner. A decision as to the level of competition needed shall be made by the buyer in consultation with the Director of MCM.

The **Independent Contractor Agreement (ICA)** is used for securing services with independent contractors, simply identified as those individuals generally not an employee of another company. The ICA is essentially an agreement that specifies the parties, scope of work, terms and conditions, and compensation. For the most part, the terms and conditions protect the interests of the District by covering various issues, such as indemnification, taxes, insurance and liability. Despite having an ICA in place, a purchase order is still required.

LEGAL REFERENCES

U.S.F.R. VI-G (1-23)

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Section 1.14: Blanket Purchase Order Agreement (BPOA)

This is an agreement that commits the user of the Blanket Purchase Order to comply with the terms and conditions of the BPO, including NOT expending more than identified maximum allowed dollar amount, and not using the BPO after the indicated expiration date. Failure on the part of the BPO end-user to comply with these rules will subject them to the penalties outlined in the Blanket Purchase Order Agreement.

In return for the purchasing authority delegated to the individual, and in consideration of the responsibility to properly steward public resources, the BPOA user shall undertake the following responsibilities:

- The Blanket Purchase Order is issued with a maximum amount that is not to be exceeded; and if exceeded the individual will be responsible for all expenditures above the maximum amount.
- The Blanket Purchase Order is issued to me with a maximum amount and that once it is fully expended a new Blanket Purchase Order must be issued (change orders can be issued increasing the PO maximum amount, but doing so after a transaction has occurred will be considered a PO After-the-Fact).
- To protect and safeguard the Blanket Purchase Order in accordance with provisions of this agreement. To promptly report any lost or stolen Blanket Purchase Order, and prior to leaving or terminating District employment, return the Blanket Purchase Order to the designated Department Fiscal Representative. And, the individual agrees to destroy the Blanket Purchase Order after June 30th of the current fiscal year.
- To purchase ethically, fairly, and without conflict of interest; to seek the best value in when using the Blanket Purchase Order.
- Assume responsibility for all transactions made with this Blanket Purchase Order while in their possession, even if they did not personally make them.
- The individual understands that all usage of the Blanket Purchase Order shall be audited.
- When using any public funds, to purchase only goods and services that serve the public purpose and determine that the price is fair and reasonable by comparing alternative sources.
- Provide reconciled Blanket Purchase Order transaction documentation (usually the sales receipt) to the appropriate site bookkeeper or secretary within one working day from the date of each transaction.
- It is understood that the District may terminate the privileged use of the Blanket Purchase Order at any time, for any reason. The individual shall return the Blanket

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Purchase Order to the District immediately upon request or termination of employment.

- It is understood that improper use of the Blanket Purchase Order may result in disciplinary action, including possible termination. Should the individual exceed the amount identified on the Blanket Purchase Order, the individual shall reimburse FUSD for the exceeded amount expended. In the event the individual does not reimburse the District within 30 days from the date the transaction exceeded the limit, Flagstaff Unified School District is authorized to deduct from the individual's salary, or from any other amounts payable to them, an amount equal to the total of the improper purchases. They also agree to allow Flagstaff Unified School District to collect any amounts owed by them even if they are no longer employed by the District. If Flagstaff Unified School District initiates legal proceedings to recover amounts owed by the individual under this Agreement, they agree to pay legal fees incurred by the District in such proceedings.

LEGAL REFERENCE:

FUSD Purchasing Policy and Procedure

Section 1.15: Evaluation and Loan of Products and Equipment

All products and equipment brought in for loan or evaluation purposes shall have prior authorization by the requester, division head, Fiscal Agent and Contract Management.

This prior approval shall be noted by signatures in the appropriate lines, on a Requisition form clearly marked **“FOR EVALUATION PURPOSES ONLY.”**

In addition, the **Requisition shall also state** that:

"All costs associated with the delivery, installation, evaluation and return of the equipment shall be borne by the vendor. All risk for damage and/or loss of the equipment shall also remain with the vendor."

This requisition shall be used to issue a Purchase Order that states the same terms as the requisition. This will be provided to the vendor prior to delivery of the equipment.

Loan or evaluation of equipment should in no manner constitute a preference for that equipment or imply that it will result in an order for the purchase. Purchasing has the responsibility to subject the purchase of all equipment to a competitive process as well as to negotiate all terms and conditions, price, warranty and service with the vendor.

Legal Reference:

FUSD Purchasing Policy and Procedure

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Section 1.16: Public Review of Bids

Formal Sealed Bids and Sealed Proposals are considered public information and as such, are open for review pursuant to the following guidelines:

Process:

Bids and modifications shall be opened publicly at the date, time and place designated in the Invitation for Bids or Request for Proposals, and in the presence of one or more witnesses. The name of each bidder, the amount of each bid, and other relevant information deemed appropriate by the school district shall be recorded. The record shall be available for public inspection.

After contract award, the bids shall be available for public inspection, except that any portion of a bid that was designated as confidential pursuant to R7-2-1005 shall remain confidential from and after the time of bid opening.

Proprietary Information:

Certain information relative to the procurement process can be deemed proprietary in nature and not open for public review. This proprietary information must be clearly marked as such by the bidder/proposer and if possible, submitted in a separate sealed envelope. This information will be considered proprietary and not open to public review, unless deemed otherwise by the Director of MCM. The final decision as to whether this information is proprietary lies with the Director of MCM.

Review of Bids or Proposals:

Requests for information or review of the documents shall be made to the Director of MCM or his designee. An appointment to review the file shall be made with the Director of MCM or buyer at a mutually convenient and reasonable time. The reviewer shall not take possession of any of the documents in the file. All proprietary information shall be removed from the file prior to the review. All reviewers must sign a Reviewers Log Sheet that becomes a part of the original bid file.

Legal Reference:

R7-2-1029. Receipt, Opening and Recording of Bids

Section 1.17: Purchases Made with Grant Funding

Purchases made with grant funding will follow all applicable guidelines as outlined in the granting agency's letter of award. For federal grants this may include, but is not limited to, following the guidelines as detailed in the OMB Circular A-110.

The responsibility for advising the Materials & Contract Management of any grant-related purchasing restrictions or requirements shall remain with the requesting department and grant awardee.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Vendor Suspension or Debarment

Federal procurement rules now require districts to check the U.S. Government's System for Award Management (SAM) before contracting with any vendor when using federal funds (100, 200 or 300 series fund codes). To inquire about a person or company's suspension/debarment status, log on to: <https://www.sam.gov/SAM/>
See Section 1.22 for more information.

Procedures 1.17

Following Section 1.22, Verification of Vendor Debarment or Suspension, the requisitioner or MCM department will verify on the Federal government's System for Award Management (SAM) that the vendor has not been previously suspended or debarred.

Reference:

Section 1.18: Prepayment for Goods or Services

The District provides prepayments only for very limited types of procurements. These include, but are not limited to, prepayment of subscriptions, dues, memberships, deposits for travel-related expenses, and certain maintenance and license fees. (See 110A; Prepayment for Goods or Services, and Process 110B, Cash Advances.)

Prepayment for standard goods or services should be avoided, except only in those situations in which no other source for the goods or services are available and no other arrangements can be made.

Justification must be provided to Purchasing management who must approve all special prepayments.

118A: Prepayment for Goods or Services

The following processes are followed for procurements that pertain to prepayments which occur when the vendor will not accept payment subsequent to the goods or services being received and Purchasing has authorized the prepayment.

Prepayments are only issued to vendors.

1. Requisition is prepared, reserved, and approved.
2. Purchase Order (PO) is prepared and approved. (See 105; Purchasing Documents.)

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

3. Copy of the PO with the original (or copy) of supporting documentation is forwarded to AP with language stating “Prepayment Authorized.” Supporting documentation includes an invoice or a form indicating what the procurement pertains to, when it will occur, for whom, and the amount (as applicable). Submission of supporting documentation with the PO is required.
-

Reference: Uniform System of Financial Records

Section 1.19---Fingerprinting Requirements for Vendors / Contractors

If required to provide services on an individual school district property site at least five (5) times during a month, contractor shall submit a full set of fingerprints to the school district in accordance with A.R.S. 15-512 of each person or employee who may provide such service. Alternately, the school district may fingerprint those persons or employees. An exception to this requirement may be made as authorized in Governing Board policy.

The District shall conduct a fingerprint check in accordance with A.R.S. 41-1750 and Public law 92-544 of all contractors, subcontractors or vendors and their employees for which fingerprints are submitted to the District. Contractor, subcontractors, vendors and their employees shall not provide services on school district properties until authorized by the District.

Charges for such fingerprint checks will be the responsibility of the contractor, subcontractor, vendor or individual employee as determined by the School District.

Additionally, contractor shall comply with the FUSD Governing Board fingerprinting policies.

Procedures 1.19

A contractor, subcontractor or vendor, or any employee of a contractor, subcontractor or vendor, or any employee of a contractor subcontractor or vendor, who is contracted to provide services on a regular basis at an individual school, shall obtain a valid fingerprint clearance card pursuant to A.R.S. 41-1758, et seq.

The Superintendent, or a principal subject to approval by the Superintendent, may exempt from the requirement to obtain a fingerprint clearance for a contractor, subcontractor, or vendor whom the Superintendent or principal has determined is not likely to have independent access to or unsupervised contact with students as part of their normal job duties while performing services to the school or to the District. The exemption shall be given in writing and a copy filed in the District office.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Reference:

- A.R.S. 41-1758, et seq.
- ASBA Policy DJG (D2850)

Section 1.20---Required Scrutinized Business Operations Clause

Required Scrutinized Business Operations Clause

All contracts for District purchase of goods or services shall include a clause requiring the contractor offering the goods or services to certify that the contractor will not engage in a boycott of Israel, as that term is defined in A.R.S. § 35-393

Procedures 1.20

All contracts for District purchases of goods or services shall include a clause requiring the contractor offering goods or services to certify that the contractor will not engage in a boycott of Israel.

Reference:

- A.R.S. §§15-213; 15-910.02; 23-214; 35-391 et seq.; 35-393 et seq.; 38-511; 41-2632; 41-4401
- ASBA Policy DJE (D2750)

Section 1.21---Registered Sex Offender Prohibition

Registered Sex Offender Prohibition

All purchase orders, agreements to purchase, and contracts for services to be provided by personnel other than District employees must include the following statement on the document:

Registered Sex Offender Restriction

Pursuant to this order, the named vendor agrees by acceptance of this order that no employee of the vendor or a subcontractor of the vendor, who has been adjudicated to be a registered sex offender, will perform work on District premises or equipment at any time when District students are, or are reasonably expected to be, present. The vendor further agrees by acceptance of this order that a violation of this condition shall be considered a material breach and may result in a cancellation of the order at the District's discretion.

Procedures 1.21

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

All purchase orders, agreement to purchase and contracts for services to be provided by personnel other than District employees must include the following statement on the document:

“Registered Sex Offender Restriction: Pursuant to this order, the named vendor agrees by acceptance of this order that no employee of the vendor, or a subcontractor of the vendor, who has been adjudicated to be a registered sex offender, will perform work on District premises or equipment at any time when District students are, or are reasonably expected, to be present. The vendor further agrees by acceptance of this order that a violation of this condition shall be considered a material breach and may result in a cancellation of the order, at the District’s discretion.”

Reference:

- A.R.S. §§15-213; 15-910.02; 23-214; 35-391 et seq.; 35-393 et seq.; 38-511; 41-2632; 41-4401
- ASBA Policy DJE (D2750)

Section 1.22---Verification of Vendor Debarment or Suspension

If the firm, business, or person submitting a proposal or offer has been debarred, suspended, or otherwise lawfully precluded from participating in any public procurement activity, including being disapproved as a subcontractor with any federal, state, or local government, or if any such preclusion from participation from any public procurement activity is currently pending, the proposer or offer must fully explain the circumstances relating to the preclusion or proposed preclusion in the offer. The proposer or offeror shall include a letter with its offer setting forth the name and address of the governmental unit, the effective date of this suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating the suspension or debarment. If suspension or debarment is currently pending, a detailed description of all relevant circumstances including the details enumerated above must be provided.

This section ties into Section 1.17 regarding procurements using grant funding, since a significant number of grants are federally funded

Procedures 1.22

Federal procurement rules now require districts to check the U.S. Government’s System for Award Management (SAM) before contracting with any vendor when using federal funds (100, 200, 300, or 510 series fund codes). To inquire about a person or company’s suspension/debarment status, log on to: <https://sam.gov/content/home>

Prior to any purchases being made by any authorized means---such as purchase order or P-cards---utilizing 100, 200, 300, or 510 federal funds, shall access the U.S. Government’s SAM and verify that the selection vendor or person is not identified on the

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

exclusion list. And, the district or end-user shall print a copy of the results to be maintained in the procurement files.

Reference:

- A.R.S.

Section 1.23---E-Verify Requirements (Federal Immigration Laws)

Required Contract Provisions

The contract or agreement with each contractor shall contain the warranties indicated below:

- Each contractor shall warrant compliance with all federal immigration laws and regulations that relate to their employees and that they have verified employment eligibility of each employee through the E-Verify program. The contractor shall acknowledge that a breach of this warranty shall be deemed a material breach of the contract subject to penalties up to and including termination of the contract.
- The contractor further acknowledges that the School District retains the legal right to inspect the papers of any contractor or subcontractor employee who works on the contract to ensure compliance by the contractor or subcontractor.

The contractor shall facilitate this right by notice to his/her employees and supervisors.

Procedures 1.22

Each District contract for purchases of goods and services shall contain the provision of statute indicated above, and the Superintendent shall implement procedures randomly to verify the records of contractor and subcontractor employees to ensure compliance with these warranties.

Reference:

- A.R.S. §§15-213; 15-910.02; 23-214; 35-391 et seq.; 35-393 et seq.; 38-511; 41-2632 and 41-1758, et seq.
- ASBA Policy DJG (D2850)

Section 1.24---Inclusive Offeror

For federal funded contracts, the following statement will occur:

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Offeror(s) are encouraged to make every effort to utilize subcontractors that are small, women-owned and/or minority owned business enterprises. Offerors who are committing a portion of their work to such subcontractors shall do so by identifying the type of service and work to be performed by providing detail concerning your organization's utilization of small, women-owned and/or minority business enterprises. Emphasis should be placed on specific areas that are subcontracted and percentage of contract utilization and how this effort will be administered and managed, including reporting requirements.

Procedures 1.24

Section 1.25---Methods of Procurement When Using Federal Funds

For federal funded contracts, three methods of procurement are to be used based on the aggregate dollar amount of supplies or services being purchased as outlined in 2 CFR 200.318-326. For purchases not exceeding \$9,999, **procurement by micro purchases** shall be utilized. For purchases not exceeding \$99,999 but greater than \$9,999, procurement by small purchase procedures shall be utilized. For purchases in excess of the Arizona School District simplified acquisition threshold (currently valued at \$100,000) procurement by sealed bids or procurement by **competitive proposals** shall be utilized.

Procurement by micro purchase

This method applies to the purchase of supplies or services when the aggregate dollar amount does not exceed \$9,999. To the extent practicable, micro-purchases must be distributed equitably among qualified suppliers. These purchases may be awarded without soliciting competitive quotes if the entity considers the price reasonable.

The school/department designated authority will be responsible for contacting potential vendor/contractor.

The school/department designated authority will be responsible for documentation of records of the purchase, name of vendor/contractor, price, and the written specifications.

The school/department designated authority will be responsible for documentation that the actual product was received.

The school/department designated authority is required to sign documentation, confirming a review and the approval of the purchase of the goods, products, and/or services.

Procurement by small purchase procedures

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

This method applies to the purchase of supplies or services when the aggregate dollar amount is more than \$9,999, but less than the Arizona School District simplified acquisition threshold (currently valued at \$100,000).

In developing written specifications, the same information will be provided to all vendors/contractors. Prices found online, in catalogs, sale flyers, newspapers, prices obtained from grocery stores, farmer’s markets, and other potential suppliers may be used.

Each vendor/contractor will be contacted and given an opportunity to provide a price quote on the same specifications. Contractor contact may include telephone and in-person price quotes, and/or the use of online, catalog or other printed pricing.

The school/department designated authority will be responsible for contacting potential vendors/contractors when price quotes are needed.

The price quotes are to remain confidential information until the actual purchase has been made.

Quotes will be awarded by school/department designated authority. Quotes awarded will be to the lowest price and best quote meeting the requirements of the specified product/service.

The school/department designated authority will be responsible for documentation of records to show selection of vendor/contractor, reasons for selection, names of all vendors/contractors contacted, price quotes from each vendor/contractor, and written specifications.

The school/department designated authority will be responsible for documentation that the actual product specified is received.

Bids will be awarded on the following criteria: must meet the requirements of the solicited product or service and must have the lowest price.

The school/department designated authority is required to sign documentation, confirming a review and the approval of the purchase of the goods, products, and/or services.

The school/department designated authority is the authorized purchaser.

Procurement by sealed bids or procurement by competitive proposals

This method applies to the purchase of supplies or services when the aggregate dollar amount is in excess of the Arizona School District simplified acquisition threshold (currently valued at \$100,000). Procurement by sealed bids is also referred to as an Invitation for Bid (IFB) and procurement by competitive proposals is also referred to as a Request for Proposal (RFP). IFB and RFP will be utilized from this point forward.



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

The Materials and Contract Management Department is tasked with soliciting a IFB or RFP when required. A Cooperative contract may be used instead, when a written justification is made for utilizing such contract.

The school/department designated authority is the Sponsor’s authorized purchaser.

An advertisement is required for all purchases over the most restrictive simplified acquisition threshold. The announcement (advertisement or legal notice) will contain a general description of items to be purchased, the deadline for submission of sealed IFB’s and RFP’s and the address where complete specifications and other procurement documents may be obtained.

In an IFB or a RFP, each vendor/contractor will be given an opportunity to bid on the same specifications.

The developer of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.

The IFB or RFP will clearly define the purchase conditions. The following, shall be addressed in the procurement document:

- Contract time period
- Sponsor is responsible for all contracts awarded (statement)
- Date, time, and location of bid opening
- How vendor/contractor is to be informed of bid acceptance or rejection
- Delivery schedule
- Set forth requirements (terms and conditions) which bidder must fulfill in order for bid to be evaluated
- Benefits to which the District will be entitled if the contractor cannot or will not perform as required
- Statement assuring positive efforts will be made to involve minority and small business
- Statement regarding the return of purchase incentives, discounts, rebates, and credits to the District account
- Contract and/or purchase orders may be issued for firm fixed prices after formal bidding process.
- Price adjustment clause based on appropriate standard or cost index
- Method of evaluation and type of contract to be awarded
- Method of award announcement and effective date (if intent to award is required by State or local procurement requirements)
- Specific bid protest procedures including contact information of person and address and the date by which a written protest must be received
- Method of shipment or delivery upon contract award
- Program Regulations

EDGAR CERTIFICATIONS

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

The following certifications and provisions are required and apply when a Public Entity expends federal funds for any contract resulting from this procurement process. Accordingly, the parties agree that the following terms and conditions apply to the Contract between Public Entity and awarded Vendor (“Vendor”) in all situations where Vendor has been paid or will be paid with federal funds:

(A) Contractor Violation or Breach of Contract Terms

Contracts for more than the simplified acquisition threshold currently set, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when Public Entity expends federal funds, Public Entity reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

(B) Termination for Cause or Convenience

Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be affected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when Public Entity expends federal funds, Public Entity reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. Public Entity also reserves the right to terminate the contract immediately, with written notice to vendor, for convenience, if Public Entity believes, in its sole discretion that it is in the best interest of Public Entity to do so. Vendor will be compensated for work performed and accepted and goods accepted by Public Entity as of the termination date if the contract is terminated for convenience of Public Entity. Any award under this procurement process is not exclusive and Public Entity reserves the right to purchase goods and services from other vendors when it is in Public Entity’s best interest.

(C) Equal Employment Opportunity

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Pursuant to Federal Rule (C) above, when Public Entity expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

(D) Davis-Bacon Act

When required by Federal program legislation, contractor agrees that, for all prime construction contracts in excess of \$2,000, contractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. Current prevailing wage determination issued by the Department of Labor are available at www.wdol.gov. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. Contractor further agrees that it shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Public Entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when Public Entity expends federal funds during the term of an award for all contracts and subgrants for construction or repair, Vendor will be in compliance with all applicable Davis-Bacon Act provisions.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers, Contractor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when Public Entity expends federal funds, Vendor certifies that Vendor will be in compliance with all applicable provisions of the Contract Work Hours and



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Safety Standards Act during the term of an award for all contracts by Public Entity resulting from this procurement process.

(F) Rights to Inventions Made Under a Contract or Agreement

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Public Entity, Vendor certifies that during the term of an award for all contracts by Public Entity resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (6) above.

(G) Clean Air Act and Federal Water Pollution Act

Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Pursuant to Federal Rule (G) above, when federal funds are expended by Public Entity, Vendor certifies that during the term of an award for all contracts by Public Entity resulting from this procurement process, Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

(H) Debarment and Suspension

Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Public Entity, Vendor certifies that during the term of an award for all contracts by Public Entity resulting from this procurement process, Vendor certifies that neither it nor its principals is presently debarred,

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

(I) Byrd Anti-Lobbying Amendment

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (I) above, when federal funds are expended by Public Entity, Vendor certifies that during the term and after the awarded term of an award for all contracts by Public Entity resulting from this procurement process, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

(1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

(J) Procurement of Recovered Materials

When federal funds are expended, Member and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include: (1) procuring only items designated in guidelines of the

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to Federal Rule (J) above, when federal funds are expended by the Member, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the vendor certifies, by signing this document, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

(K) Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of 2 CFR Part 200.322, “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Moreover, for purposes of 2 CFR Part 200.322, “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe, aggregates such as concrete, glass, including optical fiber, and lumber.

Pursuant to Federal Rule (K) above, when federal funds are expended by the Member, vendor certifies, by signing this document, that to the greatest extent practicable vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

(L) Ban on Foreign Telecommunications

Federal grant funds may not be used to purchase equipment, services, or systems that use “covered telecommunications” equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications” means purchases from Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and video surveillance and telecommunications equipment produced by



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

Pursuant to Federal Rule (L) above, when federal funds are expended by the Member, vendor certifies, by signing this document, vendor will not purchase equipment, services, or systems that use “covered telecommunications”, as defined by 2 CFR §200.216, equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Public Entity for any contract resulting from this procurement process, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Vendor further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Public Entity expends federal funds for any contract resulting from this procurement process, Vendor certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

CERTIFICATION OF EQUAL EMPLOYMENT STATEMENT

It is the policy of Public Entity not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

District has a preference for domestic end products for supplies acquired for use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy America Act). Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act.

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336

Vendor agrees that the District’s Inspector General or any of their duly authorized representatives shall have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor’s discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor’s personnel for the purpose of interview and discussion relating to such documents.

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Vendor agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

VENDOR AGREES TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, RULES, REGULATIONS, AND ORDINANCES. IT IS FURTHER ACKNOWLEDGED THAT VENDOR CERTIFIES COMPLIANCE WITH ALL PROVISIONS, LAWS, ACTS, REGULATIONS, ETC. AS SPECIFICALLY NOTED ABOVE.

Federal: Education Department General Administrative Regulations (EDGAR), 2 C.F.R. §§ 200.318-326 <https://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1.4.31&rqn=div7>

Procedure 1.25

Chapter Two: The Purchasing Organization

Section 2.01---Delegation of Purchasing Authority

- A. The governing board may, in a public meeting held in conformity with A.R.S. Title 38, Article 3.1, delegate procurement authority to a designee. Any delegation shall be accomplished by adopting a governing board policy for this purpose.
- B. Any delegation shall specify:
 - 1. The title of the employee or employees of the school district to whom authority is delegated;
 - 2. The activity or function authorized;
 - 3. Any limits or restrictions on the exercise of the delegated authority, including the maximum total cost of any procurement;
 - 4. Whether the authority may be further delegated;
 - 5. The duration of the delegation; and
 - 6. The conditions and procedures for revocation and modification of the delegation.
- C. No person delegated such authority may participate in any aspect of a specific procurement if he would receive any benefit directly or indirectly from a contract for such procurement. Violation of this prohibition may result in termination or other disciplinary action.

Procedure 2.01

- 1. The Authority to commit the District to purchases of equipment, supplies, and services is delegated by the FUSD District Governing Board to the Superintendent, Assistant Superintendent of Business Operations, and the Director of Materials and Contract Management. This is formally carried out as a Governing Board motion, naming the Director of MCM as the Purchasing Authority (Chief Procurement Officer) for the District. This authority is further delegated to the professional contract (purchasing) staff of the Materials & Contract Management department. The aforementioned are the only administrators and staff authorized to sign purchasing relating documents, including purchase orders and contracts.
- 2. A second Authority level can be assigned to administrators and staff responsible for conducting business related services at each department and school. Generally, this level of delegation is specific to the use of standard issued purchase orders, blanket purchase orders and the use of individually assigned procurement cards, but not the Authority to sign purchasing related documents.

Pursuant to the Policy 1.05, the FUSD Governing Board has authorized at its October 26, 2010 meeting that:

- 1. Delegate procurement authority to the Superintendent, Assistant Superintendent of Operations (New) and the Director of Materials and Contract Management;

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

2. Delegate any of the employees identified in Item 1 to represent the Board for determining when the use of Competitive Sealed Bids are either not practicable or advantageous to the District, and the issuance of Competitive Sealed Proposal is Recommended (R7-2-1041), for determining when there is only one source (“sole source”) for the required materials, services or construction items (R7-2-1053), for determining the use of a multi-term contract (R7-2-1093) which would include authorizing annual contract extensions, and for authorizing multiple awards to more than one vendor to supply the same goods or services, in accordance with the USFR.
3. Authorize the Director of Materials and Contract Management to approve all vendor purchases for products and services up to \$50,000, and for all purchases at all dollar levels when secured through cooperative purchasing agreements (i.e. State Contracts), when procurements are made within the current fiscal year budgets established and approved by the FUSD Governing Board;
4. Authorize the Director of Materials and Contract Management to further assign procurement authority to additional staff, as needed;
5. Approve the duration of delegation or assigned authority to run consecutively, annually, based on employee contract renewal or continued service;
6. Approve that the authority may be revoked or modified as a result of resignation, termination, change in program, or as directed by the FUSD Governing Board; and
7. Pursuant to R7-2-1141 entitled “Resolution of Bid Protests” that the Director of Materials and Contract Management be named as the District’s Representative for resolving bid protests.

LEGAL REFERENCE

- *R7-2-1006. Delegation of Procurement Authority*
- *FUSD Governing Board Approval, Oct. 26, 2010 and second reading Nov. 9, 2010*

Section 2.02---Authority of the Director of MCM

As named and approved by the Governing Board, the Director of Materials & Contract Management serves as the Chief Procurement Officer for the District, as well as the District’s representative for resolving bid protests. The Director is also responsible for the operational processes overseeing materials management, which include, but not limited to, property control, fixed asset management, inventory control and surplus property.

Consistent with the rules and regulations which govern the District, the Director of Materials & Contract Management shall adopt operational procedures governing the internal functions of the Materials & Contract Management departments.



Flagstaff Unified School District No. 1

Materials and Contract Management

"Policies and Procedures Manual"

Except as otherwise noted, the Director of Materials & Contract Management shall, in accordance with the rules and regulations affecting the District, procure or supervises the procurement of all supplies, services, construction needed by the District, and directs the management of all district property.

Procedure 2.02

The Director of Materials and Contract Management department will formulate procedures relating to procurement and materials management that comply with A.R.S. §15-213, A.A.C. R7-2-1001 through R7-2-1195, the USFR for Expenditures under Section VI-G (1-23), as well as develop procedures that serve the best interests of the District by following generally acceptance business practices.

LEGAL REFERENCES

- A.R.S. §15-213
- A.A.C. R7-2-1001 through R7-2-1195
- U.S.F.R. VI-G (1-23)

Section 2.03---Centralized Purchasing

The District subscribes to a process of centralized purchasing. This is designed to monitor, standardize, and maximize the use of purchase contracts and agreements that are available to the District as well as to extend fiscal control over the expenditure of funds.

Purchase Orders (PO)

Purchase orders are generated by the Materials & Contract Management department for purchases of equipment, supplies, and services.

Authorized Signatures:

Authorized signers of purchasing documents are outlined in the Governing Board Policy manual (VIII K, "Procurement of Goods and Services") as well as in the Policies and Procedures Manual - MCM. (See Section 2.01; Delegation of Purchasing Authority) Only these individuals as outlined in those policies are authorized to commit the District to purchases of services, equipment, and supplies.

The District is bound to receive and pay only for those goods or services authorized by valid signatures on recognized Materials & Contract Management documents. (See 1.13; Purchasing Documents)

Chapter Three: Source Selection Processes and Contract

Section 3.01---Bidders Lists and Source Selection

The Materials & Contract Management utilizes a third party to register vendors interested in receiving Invitations for Bids (IFB) and Request for Proposals (RFP). The third party, azpurchasing.com, maintains the list of vendor names, addresses, phone numbers, and categories of goods and services on an on-going basis. Prospective vendors may establish an account and update company information at any time. The link to the site is: www.azpurchasing.com.

When the District is prepared to issue a solicitation, it will upload the IFB or RFP information onto the azpurchasing.com website and schedule it for distribution to all vendors who have identified their list of products and services related to the those requested on the solicitation.

The District also has information available to vendors on its own website, which is accessible on-line at: <http://www.fusd1.org/19271065151430833/site/default.asp>. Clicking the link on the left side of the page that reads: “VENDORS – (Information & Resources Page)”, the inquirer will be linked to that page.

In those categories in which there are no vendors on the bid list or a very limited number, the buyer shall be responsible for researching and creating a list of potential sources. The requisitioner, consultants, directories of suppliers, and trade journals and publications are some of the sources available to provide this information.

Section 3.02: Competitive Sealed Bidding

The Invitation for Bids (IFB) Process

Purchases of goods and/or services in the aggregate amount of \$50,000 and over shall be awarded by a process of competitive sealed bidding.

3.02A The Invitation for Bid

The Invitation for Bid shall include the following:

- instructions and information to bidders concerning the bid submission requirements, including time and date for receipt of bids, the address of the office to which they are to be delivered, and any other information.
 - the purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements.
 - the contractual terms and conditions, including warranty and bonding or other security requirements applicable to the procurement.
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Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

3.02B Bidding Time

The bidding time is the period of time between the date of distribution of the Invitation for Bids and the time and date for receipt of bids.

In each case a bidding time shall be set that affords bidders a reasonable time to prepare the bids. A minimum of 14 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Director of MCM.

3.02C Bidder Submissions

The Invitation for Bids shall provide a form or format which the bidder shall include the bid price and in which the bidder shall sign and submit with all other necessary submissions. Telegraphic, telephone and Facsimile transmissions are not acceptable for sealed bidding purposes.

3.02D Public Notice

Adequate public notice of the Invitation for Bid or notices of the availability of the Invitation for Bid shall be mailed or otherwise furnished to a sufficient number of bidders

for the purpose of securing competition. Advertisement in a general publication newspaper with a local circulation may be used for sealed competitive bidding. When the bid list is not sufficient to maximize competition, the determination not to advertise shall be made by the Director of MCM.

3.02E Bidders Lists

The Materials & Contract Management shall compile a list of bidders that express interest in providing products or services to the District. Bidders that fail to respond to Invitations for Bid on three consecutive procurements of similar items may be removed from the bidders list.

Prospective bidders currently meeting criteria for inclusion on the list may be reinstated at their request. Names and addresses on the bidders lists shall be available for public inspection, provided these lists are not used for private promotional commercial or marketing purposes.

3.02F Pre-Bid Conferences

Pre-bid meetings may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an Invitation for Bid. The conference shall be held long enough after the announcement has been issued to allow bidders to become familiar with the document, but sufficiently before bid opening to allow consideration of the conference results in preparing their bid.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Generally the receipt of bids will be no sooner than seven calendar days after the pre-bid conference. Any exceptions must be granted in writing by the Director of MCM. Nothing stated at the conference shall change the Invitation for Bid unless a change is made by written amendment.

3.02G Amendments to Invitations for Bid

Amendments to Invitations for Bid shall be identified as such and shall require that the bidder acknowledge receipt of all amendments issued. The amendment shall reference the part of the Invitation for Bid that it amends.

All addenda shall be identified as such and shall be sent to all bidders that have acknowledged receipt of the bid. The addendum shall require that the bidder acknowledge the receipt of the addendum.

Addenda shall be issued within a reasonable amount of time for potential bidders to consider them in the preparation of their bids. If the time and date set do not permit sufficient time for bid preparation, the date and time of the bid opening shall be extended either in the addendum or by telephone, fax or telegram.

3.02H Withdrawal and Modification of Bids

A bidder may modify or withdraw its bid at any time before bid opening if the modification or withdrawal is received before the time and date set for bid opening in the location designated in the Invitation for Bid for receipt of bids.

All documentation relating to a withdrawal or modification of a bid shall be kept as part of the procurement file.

3.02I Late Bids

A bid, withdrawal of a bid, or modification of a bid is late if it is received at the designated location of the bid opening after the time and date of bid opening.

A late bid, late withdrawal of a bid, or late modification of a bid shall be rejected. Bidders submitting bids that are rejected as late shall be notified as soon as practical.

All documents concerning a late bid shall be retained in the procurement file.

3.02J Receipt of Bids

Bids and bid modifications shall be received by appropriate staff, marked with the date and time of receipt and stored unopened in a secure location, until the bid opening. A record of the receipt including the name of the bidder, the date and time and time

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

received, and the name of the person receiving the sealed bid shall be documented and retained with the bidding file.

Bids shall be opened publicly at the time, date, and location advertised in the bid document. The name of each bidder, the bid price, and other pertinent information shall be read aloud and recorded. A bid tab sheet shall be made available to the public for review.

3.02K Inspection of Bids

Only after formal award of the bid, shall the bids be made available for public inspection. Information deemed proprietary in nature by the bidder and approved as such by the Director of MCM, shall not be included in the materials available for public inspection.

3.02L Mistakes and Informalities in Bids

Mistakes in bids may be corrected by modification or withdrawal as outlined in sections above, if discovered prior to the bid opening. After bid opening, a bid submitted in error of judgment, may not be corrected. A bid may be withdrawn pursuant to the following sections:

- Minor informalities in a bid may be waived if the Director of MCM deems it advantageous to the District.
 - A bid may be withdrawn after bid opening only if the mistake is clearly evident to the Director of MCM or if the bidder establishes evidence clearly showing a mistake was made.
 - Mistakes shall not be corrected after award of the bid.
 - Any withdrawals or corrections to a bid permitted or denied after the bid opening shall have a written determination that is included in the procurement file.
-

3.02M Bid Evaluation and Award

The bid shall be awarded to the lowest responsive and responsible bidder whose bid meets, in all material respects, the requirements and criteria as defined in the Invitation for Bid. The amount of any applicable transaction privilege or use tax is not a factor in determining the lowest bidder.

Bids shall be evaluated to determine which bidder offers the lowest cost to the District in accordance to the criteria as defined in the Invitation for Bid. Only objectively measurable criteria shall be applied in determining the lowest cost to the District.

A contract may not be awarded to a bidder submitting a higher quality item than designated in the bid document unless the bidder is also the lowest bidder as determined by the criteria outlined above.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

3.02N Tie Bids

Tie bids are defined as instances of identical pricing from responsible bidders that meet all requirements as set forth in the bid documents. Tie bids may be awarded by drawing lots or any other random choice manner. Care shall be taken by the buyer to ascertain that the tie bidders meet all requirements as outlined in the bid document before declaring a tie bid situation.

Records and methods of determining the successful bidder shall be maintained in the procurement file for all tie or apparent tie bids.

3.02O Only One Bid Received

In instances of only one bid being received, a determination must be made by the Director of MCM, or authorized delegated representative, that the price submitted is fair and reasonable and which other prospective bidders had time to respond or that re-solicitation is not possible due to time constraints. In those instances, an award may be made.

If it is determined in writing by the Director of MCM, or authorized delegated representative, that the need for the product or service continues and that the acceptance of the sole bid is not advantageous to the District, then the procurement may be conducted in a manner as defined by the Director of MCM.

Procedures 3.02

Reference: Article 10, School District Procurement, Arizona Administrative Codes,

Section 303---Competitive Sealed Proposals

The Request for Proposals (RFP) Process

Purchases of goods and services in the aggregate amount of \$50,000 and over that cannot be awarded by a process of competitive sealed bids shall be procured through the use of a Request for Proposal process.

3.03A The Request for Proposal

The Request for Proposal shall include the following:

- Instructions and information to proposers concerning the submission requirements, including time and date for receipt of proposals, the address of the office to which they are to be delivered, and any other information.
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Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- The purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements.
 - The contractual terms and conditions including warranty and bonding, or other security requirements applicable to the procurement.
-

3.03B Proposal Time

The proposal time is the period of time between the date of distribution of the Request for Proposal and the time and date for receipt of proposals.

In each case, a proposal time shall be set that affords proposers a reasonable time to prepare the proposals. A minimum of 14 calendar days shall be provided unless a shorter time is deemed necessary for a particular procurement as determined in writing by the Director of MCM.

3.03C Proposal Submissions

The Request for Proposal document shall provide a form or format in which the proposer shall include all pertinent information relative to the process. The proposer shall sign and submit all necessary information called for in the Request for Proposal document.

3.03D Public Notice

Adequate public notice of the Request for Proposal or notices of the availability of the Request for Proposal shall be mailed or otherwise furnished to a sufficient number of proposers for the purpose of securing competition. Advertisement in a general publication newspaper with a local circulation may be used for sealed competitive proposals that are expected to exceed \$50,000 in cost.

3.03E Pre-Proposal Conferences

Pre-proposal meetings may be conducted to explain the procurement requirements. They shall be announced to all prospective proposers known to have received a Request for Proposal. The meeting shall be held long enough after the Request for Proposal has been issued to allow proposers to become familiar with the document, but sufficiently before receipt of proposals to allow consideration of the conference results in preparation of their proposal.

Generally the receipt of proposals will be no sooner than seven calendar days after the pre-proposal meeting. Any exceptions must be granted in writing by the Director of MCM. Nothing stated at the conference shall change the Request for Proposal unless a change is made by written amendment.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

3.03F Amendments to Requests for Proposals

Amendments to Requests for Proposals shall be identified as such and shall require that the proposer acknowledge receipt of all amendments issued. The amendment shall reference the part of the Request for Proposal that it amends.

Amendments shall be issued within a reasonable amount of time for potential proposers to consider them in the preparation of their proposals. If the time and date set does not permit sufficient time for proposal preparation, the date and time of the proposal opening shall be extended in the form of an addendum.

3.03G Withdrawal and Modification of Proposals

Withdrawal or modification of proposals is acceptable if the notification of withdrawal or modification is received prior to the deadline for receipt of the proposals at the designated location.

All documentation relating to a proposal withdrawal or modification shall be kept as part of the procurement file.

3.03H Late Proposals

A proposal, a request for withdrawal of proposal, or a modification of proposal is late if received at the designated location of the proposal receipt after the time and date listed in the Request for Proposal.

Late proposals, late withdrawal of proposals, or late modification of a proposals shall be rejected. Proposers submitting proposals that are rejected as late shall be notified as soon as practical.

All documents concerning a late proposal shall be retained in the procurement file.

3.03I Receipt of Proposals

Proposals and proposal modifications shall be received by appropriate staff, marked with the date and time of receipt, and stored unopened in a secure location until the proposal opening.

Proposals shall be opened publicly at the time, date, and location advertised in the proposal document. The name of each proposer and other pertinent information shall be read aloud and recorded. Pricing information, if part of the Request for Proposal, is not read aloud or recorded.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

3.03J Inspection of Proposals

Only after formal award of the proposal, shall the proposals be made available for public inspection. Information deemed proprietary in nature by the proposer and approved as such by the Director of MCM shall not be included in the materials available for public inspection.

3.03K Mistakes and Informalities in Proposals

Mistakes in proposals may be corrected by modification or withdrawal as outlined in sections above, if discovered prior to the proposal opening.

After proposal opening, a proposal submitted in error of judgment may not be corrected. A proposal may be withdrawn pursuant to the following sections:

- Minor informalities in a proposal may be waived if the Director of MCM deems it advantageous to the District. M
 - A proposal may be withdrawn after proposal opening only if the mistake is clearly evident to the Director of MCM or if the proposer establishes evidence clearly showing a mistake was made.
 - Mistakes shall not be corrected after award of the proposal.
 - Any withdrawals or corrections to a proposal permitted or denied after the proposal opening shall have a written determination that is included in the procurement file.
-

3.03L Proposal Evaluation and Award

The award will be made to the most qualified proposer, based upon review and recommendations of a committee of individuals that score responses to the Request for Proposal document based upon published grading criteria.

MCM shall utilize a form titled, “Evaluation Committee Member Statement,” as part of all RFP review processes.

This form covers the rules on confidentiality of the process prior to award. It includes the prohibiting contact or communicating with the proposers/bidders and not to communicating with employees outside of the committee about the evaluation process in progress.

Each committee member should sign a copy of the form. The forms should be kept as part of the bid/RFP file.

In addition, any committee member is instructed to disclose any actual or potential conflict of interest relating to the RFP or IFB.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Reference: **Section 10.04---Evaluation Committee Member Statement Form for RFP/IFB Review**

3.03M Only One Proposal Received

In instances of only one proposal being received, a determination must be made by the Director of MCM that the proposal submitted is fair and reasonable and that other prospective proposers had time to respond or that re-solicitation is not possible due to time constraints. In those instances, an award may be made.

If it is determined in writing by the Director of MCM that the need for the product or service continues and that the acceptance of the single proposal is not advantageous to the District, then the procurement may be conducted in a manner as defined by the Director of MCM.

Procedures 3.03

Reference: Article 10, School District Procurement, Arizona Administrative Codes, R7-2-1001

Section 3.04---Sole Source Procurement

Products or services may be procured without competition providing there is documentation confirming that there is only one vendor source available.

Submission of cost and specifications data may be required by the requesting department in conjunction with the Materials & Contract Management. Sole source procurement shall be avoided whenever possible.

Written justification is required on all sole source determinations. They shall be approved by either the Director of MCM or the Director of Materials & Contract Management.

Examples of sole source procurement include, but are not limited to:

- Products where compatibility with existing systems, equipment, or accessories is absolutely necessary for function, serviceability, warranty, or cost.
- For trial or evaluation products or services.
- For public utilities and services.

Purchases of educational materials may be purchased directly from the publisher as a sole source, without the need for written justification.

Examples of single source procurement include, but are not limited to:

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- Unique services, such as advertising, in which circulation, billboard location, audience demographics, and other factors make each provider different.
- Rental of certain facilities in which location is an important factor.

Completing a Sole Source Justification Form and returning it to the Materials & Contract Management department will provide the documentation necessary to identify sole source purchases.

Procedures 3.04

Legal Reference:

R7-2-1029. Receipt, Opening and Recording of Bids

Section 3.05---Emergency Procurement

The Director of Materials & Contract Management or designee may make or authorize others to make emergency procurement of equipment, goods, or services.

This will only be in instances of true emergencies where there exists a threat to the safety, health, or welfare of students, staff, or the public. In such instances, price competition is less important than the quick and safe resolution to the emergency. The normal quotation process may be waived.

Full back-up materials and justification using the on-line Emergency Procurement Form, located on the MCM Website, will be submitted to the Materials & Contract Management as soon as possible to substantiate the purchase. This information will be made a part of the file.

The District Governing Board will be informed of the emergency situation at its next regular meeting, although no action of the Board is required.

Legal Reference:

R7-2-1056 & R7-2-1057

Section 3.06---Types of Contracts

There are a number of types of contracts used in the District. The most common are listed below:

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

3.06A Blanket or Requirements Contract

This type of contract encompasses the needs of a particular requisitioner or the district for a specific product or line of products or services. Contracts may be based upon a set price for a number of items or services, or it may be for a wide range of products or services with a predetermined discount or mark-down based upon a catalog or book standard price.

3.06B Multi-Term Contracts

Multi-term contracts for goods or services may be utilized for a period not to exceed five (5) years, if they meet the following criteria:

- The estimated requirements subject to this contract are identifiable as to scope and/or general quantities for the periods covered.
- The contract serves the best interest of the District by encouraging competition and economies of scale based upon extended purchase periods.
- The contracts are written for a period of one fiscal year only, with an option to renew each year for four (4) additional years, based upon availability of funding. Contracts may be automatically renewable unless a cancellation notice is provided to the vendor within 30 days of the contract extension date.

The vendor must continue to meet all criteria based upon performance and other requirements that may apply such as bonding, insurance and licensure, etc.

3.06C Contracts for Professional Services

Professional Services Contracts should be used for the procurement of services, not products or construction/renovation.

Professional Services contracts are to be used only for the following types of services:

Consultants (e.g. Management), Educational Consulting (e.g. Curriculum Development and Evaluation), Grant Writing/Development, Technical Support, Speaking/Facilitating/Presenting, Editing/Writing, Teaching/Instruction Services, and Student Activities.

Exceptions to these categories are to be upon approval of the Director of MCM. Professional Services Contract procedures vary according to dollar limits:

Professional Services Contracts

Professional Services at or above \$50,000 require competitive, sealed proposals utilizing the Request for Proposal (RFP) process. (See 3.03; Competitive Sealed Proposals.)

Professional Services Contracts from \$25,000 to under \$50,000

Professional Services from \$25,000 to under \$50,000 need to show as much competition as is practical and deemed necessary by the Director of MCM. A minimum of three written quotations shall be obtained.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Professional Services Contracts from \$5,000 to under \$25,000

Professional Services from \$5,000 to under \$25,000 requires competitive evaluation necessary to determine the most qualified service provider. Pricing can be a factor but not necessarily the determining factor for selection. Competition evaluation must be reviewed and approved by the Director of MCM.

Professional Services under \$5,000

Purchases of Professional Services under \$5,000 can be processed on a Limited Purchase Order (LPO). A contract is not required by MCM although it is recommended to use the standard Independent Contractor Agreement, ensuring that all pertinent language is contained within the standard terms and conditions.

“Contract for Professional Services” forms are standard forms designed for use with Professional Services Contracts up to \$50,000 to ensure that all pertinent information is obtained and agreed to by the Contractor. Contracts for Professional Services exceeding \$50,000 are developed by the Materials & Contract Management Department.

In addition to a contract, an approved Requisition is necessary for creation of a Purchase Order (Coding should be to Professional Services - 3210). Itemized invoices must also be submitted to process payments to the Contractor to verify that the services have been provided.

The following information is to be included on the Requisition:

Contract Number, RFP Number (if applicable), Description of Services, and Payment Schedule

Note: Professional Services Contracts are not to be used for the temporary employment of staff. For those instances, special services contracts (available through Payroll department) are to be used. I-9 forms are only to be used if the contractor is considered a temporary or contract employee. If the person has assigned hours, is provided a workspace plus equipment and supplies, and is treated or performs such as an employee, this may be a temporary employment situation that warrants use of a Special Services Contract.

3.06D Routing of Contracts

All contracts that require signature regardless of the dollar amount are to be forwarded to the Director of Materials and Contract Management. Purchasing will then send any contracts that need review and signature to the Legal department, if necessary. Please reference the requisition number on all contract forms.

After the contract is signed by the appropriate authority, a Purchase Order is then created based on the approved requisition and signed contract. The Purchase Order along with the signed contract is then sent to the vendor.

Note: A vendor shall not begin work or provide any service until a requisition is approved, a contract is signed, and a Purchase Order is created.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

3.06E Contract Signatory Authority

The authorized individuals to sign contracts on the behalf of the District are set by Governing Board Policy and are as follows:

- The FUSD Superintendent; T
- Assistant Superintendent of Operations; A
- Director of Materials and Contract Management; D
- Senior Contract Specialist and Contract Specialist within the MCM department S

Note: No other employee of the District is authorized to sign contracts on behalf of the District.

Section 3.07---Right to Audit Records

The District may, at reasonable times and locations, audit the books and records of any person or organization that submits costs or pricing or is awarded a contract which includes cost reimbursement. For purpose of this procedure, District includes appropriate Purchasing, Finance and Internal Audit staff as well as representatives of the Auditor General’s staff or other review organizations.

Any person or organization that receives a contract of which cost or pricing data is required, shall maintain the books and records that relate to that information for a period of three years from the date of the final payment under that contract, unless a different period is required.

The District may, at reasonable times and locations, audit the books and records of any contractor or subcontractor relating to the performance of a contract or subcontract.

The contractor or subcontractor shall maintain the books and records that relate to the contract or subcontract for a period of three years from the date of the final payment under that contract, unless a different period is required.

Procedures 3.07

The MCM department will ensure that all solicitations for procurement that it has the right pursuant to A.A.C. R7-2-1083 to inspect and audit records pertaining to the contract awarded the contractor

Legal Reference:

A.A.C. R7-2-1083

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Section 3.08: Right to Inspect Plant

The District may, at reasonable times inspect part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded.

This extends to the inspection of a plant or business location prior to award, as part of a determination process to decide capability and fitness for the contract.

Procedures 3.08

The MCM department will ensure that all solicitations for procurement that it has the right pursuant to A.A.C. R7-2-1082 to inspect the plant pertaining to the contract awarded the contractor.

Legal Reference:

A.A.C. R7-2-1082

Section 3.09: Records Retention Policy

The retention of purchasing records is in accordance with the standards as set forth in the General Records Retention Schedule for all School Districts and Charter Schools Purchasing/Procurement, Schedule Number: 000-10-78, from the Arizona State Library Archives and Public Records.

1. Formal Bids for construction and Requests for Proposals for architects, engineers and related professionals. Supporting documentation and summaries for the process are kept indefinitely. Submittals from non-successful bidders and proposers are kept for three years from completion of the project.
2. Formal Bids and Requests for Proposals: Supporting documentation and summaries for the process as well as additional back-up materials are kept for three years after close of the fiscal year in which they were received.
3. Purchase Orders, Requisitions and Vendor Invoices are kept for three years after close of the fiscal year in which they were processed.
4. Leases, Contracts and other agreements are maintained for a period of six years after expiration of the agreement.
5. Disclosure of Substantial Interest forms are kept for three years after close of the fiscal year in which they were received.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Records will be kept longer if audits were not performed in a timely manner. In this case, these records will be maintained for a period of three years after completion of that audit.

Procedures 3.09

Section 3.10---Special Procurements

A situation may occur which makes compliance with Sections 104.1 through 104.4 impracticable, unnecessary or contrary to the public, but for which a sole source or emergency procurement is inappropriate.

In such cases, the Director of Materials and Contract Management, or his or her designees, may make or authorize others to make procurements with limited or no competition, as the officer deems appropriate based on the circumstances. The Director of MCM or those designated representatives shall make a written determination of the basis for his or her decision, and the selection of the contractor. The determination will be retained in the contract file.

The Director of MCM may authorize the purchase of certain specified classes of services, equipment or goods as special procurements under this Section. He or she may do so only through a written determination that sets forth the reason for the designation of the class of service, equipment or good as a special procurement, along with appropriate requirements applicable to the procurement, such as dollar/expenditure limits or limited competition procedures.

Procedures 3.10

Section 3.11---Procurement of Used Equipment

Used equipment may be purchased if it meets the needs of the District as required by the user. The purchase of used equipment must be in the best interest of the District and result in a cost savings when compared to the purchase of new or refurbished equipment. A statement containing the following information must accompany the requisition.

1. The requestor has inspected the equipment.
2. The equipment is in proper working order.
3. The equipment meets the needs of the user.
4. It is in the District's best interest to procure the used equipment.
5. A determination as to price reasonableness, such as Fair Market Value (FMV).

The statement must be reviewed and approved by the Director of MCM.

Methods of maximizing competition, within reason, are to be implemented by the MCM staff with the approval of the Director of MCM.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Purchases of used equipment in excess of \$50,000 must adhere to the competitive bid process.

Procedures 3.11

Section 3.12---Employees as Vendors

The use of FUSD employees to provide goods or services is strongly discouraged. Only in cases in which it is proven that the employee is able to provide the goods or service at a lower cost will the purchase be made. ANY purchases from an employee should show evidence of competition and be approved in advance by Purchasing. This includes purchases made on Limited Purchase Orders.

If you are an Employee acting as a potential vendor or have a relative who is a potential vendor, you must complete a Disclosure of Substantial Interest Form. Forms are also available from your Fiscal Agent or the Materials & Contract Management. This form must be completed and submitted to Purchasing annually.

Procedures 3.12

Chapter Four: Specifications

Section 4.01---Specifications

Specifications for the procurement of goods or services shall be written by the requesting department and integrated with the standard boilerplate information, terms and conditions by the Materials & Contract Management. These specifications shall be written in order to ensure satisfaction with the product or service being requested, yet general enough to ensure adequate competition.

Brand name or equal specifications may be utilized when the Director of MCM determines that the use of brand name or equal specification is advantageous to the District and:

- A. No existing specifications are available.
- B. Time does not permit the preparation of specifications.
- C. The nature of the product makes the use of a brand name or equal specification suitable for procurement.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

A brand name or equal specification shall designate as many brands as possible. The specification shall include a description of the particular design, function, or performance characteristics that are required, unless the Director of MCM determines that the brand names in the specifications are commonly known.

If a consultant is used to develop specifications, the consultant shall provide to the District a general statement to be included in their recommendations that reads as follows:

“No direct or indirect benefit is to be realized by (the consultant) from the Flagstaff Unified School District using these specifications or awarding a bid based upon them.”

Procedures 4.01

Chapter Five: Procurement of Construction and Construction Related Services

Section 5.01---Lease, Buy or Build

Before initiating a construction project, consideration shall be given to alternatives, such as leasing or buying existing building space, whenever appropriate. The Chief Procurement Officer, a representative from Facilities and Maintenance and the Assistant Superintendent of Operations shall participate in deciding whether to build, buy, or lease. Factors for consideration include, but are not limited to:

- A. Whether this is an addition to an existing school campus or district site, in which case leasing or buying is usually not an alternative.
- B. Whether the school or site’s need is on-going or temporary.
- C. The adequacy of available space to fit the school or site’s needs
- D. Whether there is need for control over the building.
- E. The need to physically separate the district’s operations from existing facilities.
- F. Whether the cost of acquisition of an existing building meets the needs of the district and is cost effective considering the expense and time to be invested in the construction of a new facility.

Section 5.02---Construction Procurement

Construction procurement shall be conducted in accordance with all Governing Board Policies, and District procedures.

The District may procure design services, construction and construction services, as applicable, under any of the following project delivery methods:

1. Design-bid-build
2. Construction-manager-at-risk
3. Design-build
4. Job-order-contracting

5.02A Definitions

Design-bid-build is the process in which separate procurements are conducted for architect/engineer services and general construction. The design provided by the architect/engineer is utilized as part of the bidding document for the general contracting services.

A Construction-manager-at-risk acts as a general contractor at the contracted-for price and provides consultation to the institution regarding construction during and after the design of the facility.

Design-build is a method of contracting in which a single contract is created with a firm or group of firms in partnership to build or renovate a building or group of buildings. The intent is for the architect/engineering professionals to work more closely with the general contractor and subcontractors to provide a single source of responsibility for the design and construction of the project. This contrasts with the separate contracts with architects/engineers and general contractor involved in the standard design-bid-build or Construction Manager at Risk.

Job-order contracting is a construction contract used for new construction, maintenance, rehabilitation, and alterations of a recurring nature but which is of an indefinite delivery and indefinite quantity. The Job Order Contract shall include a comprehensive compilation of detailed real property repair, rehabilitation, alteration, maintenance, and minor construction task descriptions or specifications, a pre-determined and agreed upon pricing, discount coefficient or mark-up pricing structure.

5.02B Design-Bid-Build

For the design-bid-build project, the District shall procure the Design services according to Section 506; Architect, Engineer, Land Surveying and Related Services and the Construction by competitive sealed bidding, according to Section: 302: Competitive Sealed Bidding - The Invitation for Bid (IFB) Process, except as otherwise provided in 305: Sole Source Procurement and Section 306: Emergency Procurement.

5.02C Construction-Manager-at-Risk, Design-Build and Job-Order-Contracting

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

The District shall procure construction services under the construction-manager-at-risk, design-build and job-order-contracting project delivery methods according to Section 508: Alternative Construction Procurement Methods.

The District shall procure design services relating to a construction-manager-at-risk construction services project according to Section 508: Alternative Construction Procurement Methods.

For job-order-contracting construction services projects, if the District does not include design services in the job-order-contracting construction services contract, the District shall procure any design services relating to job-order-contracting construction services projects under the contract according to Section 506: Architect, Engineer, land Surveying and Related Services.

Procedures 5.02

The MCM department will ensure that all solicitations and process conform to the alternative project delivery methods (APDM) for construction procurement pursuant to A.A.C. R7-2-1109 through R7-2-1116.

Section 5.03---Bid Security

Bid security shall be used on all competitive sealed bidding for construction contracts that exceed \$25,000 in value, unless a waiver is deemed appropriate and approved by the Director of MCM. Bid security protects the District against the failure or refusal of the low bidder to supply the necessary performance and payment bonds, as required, and to proceed with the performance under the contract.

Bid security shall be provided by a surety company licensed to conduct business in the State of Arizona or it shall be in the form of a cashier's check made payable to the District.

Bid security is set at 10% of the bidder's base bid amount. Bid security is required to be submitted at the time of the submittal of the sealed bid. If the bidder fails to accompany its bid with bid security, the bid shall be considered non-responsive.

If a bid does not comply with the security requirements, the bid shall be rejected as non-responsive, unless the failure to comply is determined by the Director of MCM to be non-substantial where:

- A. Only one bid is received and there is not sufficient time to re-bid the contract;
- B. The amount of the bid security submitted, while less than the amount required by the Invitation for Bid, is equal or higher than the difference in the price stated in the next higher acceptable bid; or

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- C. The bid guarantee becomes inadequate as a result of the correction of a mistake in the bid or bid modification, if allowed, if the bidder increases the amount of the guarantee to required limits within two working days after bid opening.

Procedures 5.03

The MCM department will ensure that all solicitations and process conform to the alternative project delivery methods (APDM) for construction procurement pursuant to A.A.C. R7-2-1109 through R7-2-1116.

Section 5.04---Performance and Payment Bonds

A performance bond is required for all construction contracts that exceed \$25,000 in value, in the amount of 100% of the contract price. The performance bond shall be delivered to the District at the same time the contract is executed. If a contractor fails to deliver the performance bond, the contractor's bid shall be rejected, it's bid security shall be enforced, and award of the contract shall be made to the next lowest responsible and responsive bidder.

A performance bond protects the District against loss resulting from the failure of the contractor to perform a construction contract in accordance with plans and specifications.

A payment bond is required for all construction contracts that exceed \$25,000 in value, in the amount of 100% of the contract price. The payment bond shall be delivered to the District at the same time the contract is executed. If a contractor fails to deliver the payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made to the next lowest responsible and responsive bidder.

A payment bond guarantees payment and protection for those furnishing labor and materials to the contractor or its subcontractors for the work bonded.

Procedures 5.04

The MCM department will ensure that all solicitations for construction procurement of \$50,000 and above to include language under A.A.C. R7-2-XXX that requires Performance and Payment Bonds equal to 100% of the contract price

Section 5.05---Changes in Construction Contracts

At any time the Director of MCM may, in a signed letter without notice to the surety, approve a change order that may make:

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- A. Changes in the work within the scope of the contract; and
- B. Changes in the time for performance of the contract that does not alter the scope of the contract.

If this change order increases or decreased the contractor’s cost of or the time required for performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made and the contract shall be modified in writing. A change order shall be used for this process.

Procedures 5.05

Section 5.06---Architect, Engineer, Land Surveying and Related Services

This procedure relates to the contracting of architect, engineer, land surveying, and related professional registrant services involved in the planning, design, construction, and renovation, of facilities for the District.

5.06A Procurement of Professional Services in an amount of from \$50,000 to \$100,000

For procurement of these professional services in an amount of from fifty thousand dollars (\$50,000) to one hundred thousand dollars (\$100,000), Purchasing shall assign a selection committee, which shall independently evaluate and score submittals received from firms or individuals responding to the District's Request for Qualifications. If possible, the selection committee may conduct discussions with a short list of at least three of the highest scoring firms or individuals.

5.06B Procurement of Professional Services in an amount greater than \$100,000

For the procurement of professional services in an amount of more than one hundred thousand dollars (\$100,000) the District shall follow the standard Request for Proposal (RFP) procedures as outlined in section 303.

The contracting of these related types of services may be made in advance for use on an “as-needed” basis for smaller projects that do not exceed \$500,000 in value. The Request for Proposal process as outlined in Section 303 shall be used for these types of procurements. A master listing of these chosen providers by type of service shall be maintained.

Procedures 5.06

Section 5.07---Construction by District Employees

Employees may construct a building, structure, addition, or alteration of a District facility, if the cost does not exceed twenty thousand dollars (\$20,000).

For this procedure, "Cost" means the aggregate cost of all materials and services, including labor performed by District employees.

Procedures 5.07

Section 5.08---Alternative Construction Procurement Methods

Professional services and construction services shall be procured for the alternative construction procurement methods as outlined in this section. Exceptions are those instances in which Sole Source Procurement, Section 305, or Emergency Procurement, Section 306 apply. Alternative construction procurement methods as defined in Section 502, Construction Procurement, are construction-manager-at-risk, design-build, and job-order-contracting, known as Alternative Project Delivery Methods (APDM).

5.08A Definitions

For purposes of this section, "construction services" includes: construction-manager-at-risk construction services, design-build construction services, and job-order-contracting construction services. These may or may not contain a professional services component.

For the purposes of this section, "professional services" includes architect services, engineer services, landscape architect services, assayer services, geologist services and land surveying services and any combination of those services, provided by a registered professional.

RFQ or Request for Qualifications means a solicitation with an intended response that includes initial data about a firm or individual such as experience, references, and approach to the project. For purposes of this section, pricing may not be required in the initial solicitation.

RFP or Request for Proposals means a solicitation with an intended response that is fairly detailed. For purposes of this section, it will supplement an initial RFQ response. Also, for purposes of this section, the technical and financial portions of the proposal response will be provided at the same time, but in a separately sealed manner, to enable the committee to review the technical response separately and prior to the review of the financial proposal.

For procurement of construction services relating to the alternative construction procurement methods, two thresholds apply:

5.08B Procurement of All Alternative Construction Services.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

For procurement of construction-manager-at-risk, design build and job-order-contracting, the District shall follow these procedures:

The District shall announce and issue the solicitation according to its normal procedures. MCM shall assign a selection committee, which shall independently evaluate and score proposals and qualifications. Purchasing shall determine the makeup of the selection committee for all contracts that include construction services. For projects that include construction, the selection committee shall have at least one person who is a senior management employee of a licensed contractor and one person who is an architect or engineer registered to practice in the State of Arizona. The contractor or design professional may be an employee of the District.

Outside contractors, architects and engineers serving on a selection committee shall not receive compensation from the District for performing these services, but the District may elect to reimburse them for travel, lodging and other expenses incurred in connection with the service on the selection committee. Reimbursement shall be at a rate no greater than the standard rate authorized for District employees on District related travel. A person who is a member of the selection committee shall not be a contractor under the contract or provide construction, construction services, materials or other services under the contract.

The selection committee shall:

- A. Independently evaluate and score the written proposals and qualifications submitted by the firms or individuals.
- B. If outlined in the solicitation, shall attempt to conduct discussions with at least three of the highest scoring firms or individuals. If only two firms or individuals respond to the solicitation, the committee may proceed with the selection process or Purchasing may re-solicit for additional proposals. If only one firm or individual responds to a solicitation for professional services, the selection committee may choose to proceed with the process with that firm or individual if Purchasing determines in writing that the fee negotiated as a result of the process is fair and reasonable and that other firms and individuals had a reasonable opportunity to respond, or if there is not adequate time for a re-solicitation.

5.08C The One-Step Competitive Process.

Purchasing shall enter into contract negotiations with the highest qualified firm or individual for the professional services or construction services as a result of following the processes outline in section 508.2 or section 508.3. Negotiations shall include fees as well as other contractual terms and conditions deemed fair and reasonable and important to the District. Purchasing shall take into account the estimated value, scope, complexity and nature of the procurement. If Purchasing is unable to negotiate a satisfactory agreement with the firm or individual considered to be the most qualified, then Purchasing shall terminate those negotiations and undertake negotiations with the next most qualified firm or individual in sequence until an agreement is reached. If a construction contract is entered into as a result of this process, construction shall not begin until

Purchasing and the contractor agree in writing on a price for the construction portion of the contract.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

5.08D The Two-Step Competitive Process.

For design-build construction services or job-order-contracting, as an alternative to the one-step competitive process outline in Section 508.3 above, Purchasing may utilize the following process:

- A. Purchasing shall issue a Request for Proposals to those firms or individuals short-listed as a result of the process outlined above.
- B. The selection committee make up shall remain the same as outlined in sections 508.2 or 508.3 above.
- C. For design-build construction services and job-order-contracting construction services, the Request for Proposals shall include:
 1. Specifically for design-build construction projects, the project schedule, project final design and construction budget or life cycle budget.
 2. For both types of services, a statement that the contract will be awarded to the firm or person whose proposal receives the highest number of points under a scoring system.
 3. A description of the scoring method, including a list of factors in the scoring method and the number of points allocated to each factor. Those factors may include:
 - i. Proposer's qualifications
 - ii. Proposer's financial capacity
 - iii. Proposer's proposed compliance with the District's project schedule
 - iv. Proposer's quality management plan
 - v. Any other evaluation factors as determined by Purchasing.
 - vi. For design-build construction services only, demonstrated compliance with the design requirements.
 - vii. For design-build construction services only, if the Request for Proposals specifies the District will spend its project budget and not exceed that budget, and thus is seeking the best proposal for the project budget.
 1. A requirement that each proposer submit separately a technical proposal and a price proposal and that the proposer's entire proposal is responsive to the RFP. For design-build construction services, the price in the proposal shall be a fixed price or a guaranteed maximum price.
 2. A statement that the selection committee will separately evaluate the technical proposal and the price proposal, and that they will evaluate and score the technical proposal before opening the price proposal.
- D. If determined by Purchasing and noted in the RFP, the selection committee or a subcommittee consisting of Purchasing and at least one other member may conduct discussions with any or all firms or individuals chosen. Discussions shall be for the purpose of clarification to assure full understanding of the project and responsiveness to the solicitation requirements. Information from proposals submitted and discussions held shall not be disclosed to competing proposers.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- E. Best and Final Offer submittals may be requested of any or all finalists. These submittals shall contain both technical and financial information. The final technical proposals shall be evaluated and scored first before opening and evaluating and scoring final financial proposals.
- F. Purchasing shall award the contract to the responsive and responsible proposer whose proposal receives the highest score.
- G. For design-build construction services only, the District shall award a stipulated fee equal to a percentage of the District's project final construction budget, as prescribed in the request for proposals, but not less than two-tenths of one per cent of the project final construction budget to each short listed proposer who provides a responsive, but unsuccessful, proposal.

If the District does not award a contract, all responsive short listed proposers shall receive the stipulated fee based on the District's estimate of the project final design and construction budget as included in the request for proposals. The District shall pay the stipulated fee to each proposer within ninety days after the award of the initial contract or the decision not to award a contract. In consideration for paying the stipulated fee, the District may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the unsuccessful proposers.

Notwithstanding the other provisions of this paragraph, an unsuccessful short list proposer may elect to waive the stipulated fee. If an unsuccessful short list proposer elects to waive the stipulated fee, the District may not use ideas and information contained in the proposer's proposal, except that this restriction does not prevent the purchasing agency from using any idea or information if the idea or information is also included in a proposal of a proposer that accepts the stipulated fee.

5.08E Job-Order-Contracting Dollar Limits and Subcontracting

For job-order-contracting construction services only:

- A. The dollar amount of an individual job order shall not be more than one million dollars (\$1,000,000.00) Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies this requirement.
- B. If the contractor subcontracts or intends to subcontract part or all of the work under a job order and if the job-order construction services contract includes descriptions of standard individual tasks or standard unit prices for standard individual tasks, then:
 - 1. The contractor has a duty to deliver promptly to each subcontractor invited to bid, a copy of the descriptions and the standard unit prices of all standard individual tasks on which the subcontractor is invited to bid.
 - 2. The contractor has a duty to deliver promptly the following to each subcontractor that has agreed to do any of the work included in any job order, a copy of the description, the number of units and the standard unit price of each standard individual task that is included in the job order.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

5.08F Confidentiality of Process

Until award and execution of a contract by the District, only the names of each firm or individual on the short list may be made available to the public. All other information received by the District in response to the request for qualifications or contained in the proposals shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing proposers during the selection process. The proposals shall be open to public inspection after the contract is awarded and the District has executed the contract. To the extent that the proposer designates and Purchasing concurs, trade secrets and other proprietary data contained in a proposal shall remain confidential.

5.08G Cancellation of Procurement Process

Purchasing may cancel a request for qualifications or a request for proposals or reject in whole or in part any or all submissions of qualifications or proposals as specified in the solicitation if it is in the best interest of the District. Purchasing shall make the reasons for cancellation or rejection part of the purchasing file.

5.08H Registrations, Licensure and Project Definition

- A. The successful contractor for construction-manager-at-risk, design-build or job-order-contracting construction services is not required to be registered to perform design services pursuant to Title 32, Chapter 1 of the Arizona Revised Statutes, if the person or firm actually performing the design services on behalf of the contractor is appropriately registered.
- B. The successful contractor for construction-manager-at-risk, design-build or job-order-contracting construction services is not required to be licensed to perform construction pursuant to Title 32, Chapter 10 of the Arizona Revised Statutes, if the firm actually performing the construction on behalf of the contractor is appropriately licensed.
- B. Each project under a design-build construction services contract or a construction-manager-at-risk construction services contract shall be a specific, single project. For the purposes of this paragraph, "specific, single project" means a project that is constructed at a single location, at a common location or for a common purpose.

5.08I Prohibition against Competing with Private Firms or Contracting with other Agencies for these Services

Notwithstanding anything to the contrary in this procedure, the District shall not:

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- A. Enter into a contract as a contractor to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services to others.
- B. Contract with itself, with another District, with the state or with any other governmental unit of the state or the federal government to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services for itself.
- C. The prohibitions prescribed in this section do not prohibit the District from providing design or construction services for itself as provided by law.

Procedures 5.08

Chapter Six: Contract Modifications and Terminations

Section 6.01---Contracts for Supplies and Services Modification and Termination

Contracts for supplies and services are subject to modifications and termination within the guidelines of the specific contract.

The following types of changes may be made to existing contracts:

- A. Fixed-price contracts may be changed within the general scope of the contract in any one or more of the following areas:
 - 1. Date of delivery
 - 2. Location of delivery
 - 3. The method of shipment or packaging
- B. Blanket orders for commodities or services may be amended at agreed upon times and milestones.
 - 1. This may be to adjust price upward to compensate for inflation and other factors that have affected the contract over time; or
 - 2. It may be to adjust pricing downward to compensate for changing market variables.

These requests for changes must be substantiated in writing and agreed upon in advance in the original contract.

Contracts may be terminated for cause and for mutual convenience of both parties.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Requests for terminations for cause must be documented and approved by the Director of MCM. Terminations for mutual convenience by both the supplier and the District also must be approved by the Director of MCM in advance.

Chapter Seven: Procurement Cards

Section 7.01---FUSD Procurement Card Program

Purpose

The procurement card program generally allows cardholders to make transactions for products and services, such as office and art supplies and food for the culinary arts programs. The card can also be used for individuals in a travel status, such as bus drivers and field trip coordinators and those attending conferences. It can be used for a variety of purchase, other than capital equipment. The exception to this would include purchases qualified under emergency conditions.

Cardholders will be required to attend an extensive training program and sign individual agreements, which will make them liable for the ensuring proper uses of the cards.

Procurement cards are similar to credit cards but have many other features, such as:

- MCC (Merchant Category Code) blocking, which will restrict cardholders from making purchase and/or going to some types vendors (i.e. liquor stores);
- Does not allow cash advances or ATM use;
- Allows each cardholder individual spending limits---by dollar, number of transactions (daily, weekly, monthly);
- Allows for detailed spending reports on a daily basis.

Procurement Card Policies and Procedures Manual

The MCM department created and maintains a procurement card policies and procedures manual. Please refer to this manual for more detailed instructions.

Chapter Eight: Legal and Contractual Remedies

Section 8.01---Protest and Appeals of Contracts and Awards

8.01A Content of Formal Protest and Appeal Letter

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Any participating bidder may file a protest of a contract award or proposed contract award. The protest or appeal must be in writing and contain at least the following information:

1. The name, address, and telephone number of the protester.
 2. The signature of the protester.
 3. The bid number and date of bid closing.
 4. A statement of the legal and/or factual grounds on which the protest or appeal is based, including copies of information relevant to the bid.
 5. The form of relief requested.
-

8.01B Filing Procedure

Protests are to be filed with the Chief Procurement Officer, Flagstaff Unified School District No. 1, within 10 days of award. Failure to timely protest shall be deemed a waiver of all rights to protest.

If a protest is filed before the award of a contract, no award shall be made until the protest has been administratively resolved, unless the Chief Procurement Officer makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the District.

A written decision will be made within 10 days after the protest has been filed. The decision shall contain an explanation of the basis of the decision. The Chief Procurement Officer shall furnish a copy of the decision to the protester by certified mail, return receipt requested, or by any other method that provides evidence of receipt.

The time limit for a decision may be extended by the Chief Procurement Officer for a reasonable time not to exceed thirty days. The Chief Procurement Officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

8.01C Remedies

If the Chief Procurement Officer sustains the protest in whole or in part and determines that a solicitation, proposed contract award, or contract award does not comply with District Policies or procedures, the Chief Procurement Officer shall implement an appropriate remedy.

In determining an appropriate remedy, the Chief Procurement Officer shall consider all the circumstances surrounding the procurement or the proposed procurement, including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, cost to the government, the urgency of the procurement, and the impact of relief on the district's mission.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

An appropriate remedy may include one or more of the following:

Decline to exercise an option to renew under the contract; terminate the contract; reissue the solicitation; issue a new solicitation; award a contract consistent with this District Policy and procedures; reject all bids or proposals without further actions; or such other relief as determined necessary to ensure compliance with this District Policy or procedures.

8.01D Appeals

Appeals are to be filed with the Chief Procurement Officer within 5 days of the receipt of the decision. The notice of appeal shall contain:

The information from the original protest letter, a copy of the decision of the Chief Procurement Officer, and the basis for the appeal.

The procurement officer shall immediately give written notice of the pending appeal to the successful contractor if award has been made or, if no award has been made, to interested parties. Any party so notified shall, upon request, be furnished with a copy of the notice of appeal filed in the matter.

The Chief Procurement Officer shall notify the Governing Board or its designee of the appeal. Any hearing or appeal shall be conducted by the Governing Board or its designee as hearing officer. A written decision will be made within 14 days after the appeal has been filed.

The time limit for a decision may be extended by the hearing officer for a reasonable time not to exceed thirty days. The hearing officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

8.01E Stay of Procurement During Appeal

If an appeal is filed before an award of contract and the award of the contract was stayed by the procurement officer, the filing of an appeal shall automatically continue the stay unless the hearing officer conducting the appeal makes a written determination that the award of the contract without delay is necessary to protect the substantial interest of the District.

8.01D.2 Dismissal Before Hearing

The hearing officer conducting the appeal shall dismiss, upon a written determination, an appeal before scheduling of hearing if the appeal does not state a valid basis for protest; or the appeal is untimely.

8.01F Remedies

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

If the hearing officer sustains the protest in whole or in part and determines that a solicitation, proposed contract award, or contract award does not comply with District policies or procedures, the hearing officer shall implement an appropriate remedy. Remedies shall follow those outlined in the previous section on remedies.

Procedures 8.01

Section 8.02---Contract Claims and Dispute Resolution

8.02A Applicability

This procedure applies to claims, controversies or disputes between the Flagstaff Unified School District and a contractor arising from activities or inactions on a contract between the two. This includes disagreements of any kind, such as claims or disputes asserting breach of contract, mistake, or misrepresentation, contract modification or rescission, and those regarding interpretation of the contract and the parties' responsibilities under it. It is the policy of the Flagstaff Unified School District to attempt to resolve claims, disputes or controversies in good faith, engaging the formal process specified in these procedures only where necessary.

8.02B Authority

The Director of MCM or, for construction and related service contracts, the Director of Facilities Planning and Development, or their designees, (“Contract Administrator”) are authorized to settle and resolve contract claims, controversies and disputes, subject to the restrictions and limits of section 902.3 and the procedures of the Capital Development Advisory Council. Appeals of final decisions made by the Contract Administrator on a claim, controversy or dispute may be made to the Director of Strategic Business Support Services (“Chief Procurement Officer”) following the format outlined in section 902.4.

8.02C Restrictions and Limits

Settlement of a claim is subject, where appropriate, to policies and practices of the Governing Board requiring its approval in certain cases.

8.02D Timeliness and Format of the Initial Claim

The Contract Administrator shall initially consider and resolve claims, controversies and disputes according to the procedures and within the times specified in the contract. In any event, any claim, controversy or dispute must be filed with the Contract Administrator within 180 days after the date that the claim, dispute or controversy arose.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

The claim, controversy or dispute not resolved according to the contract’s procedures shall be subject to the procedures specified below. The contractor must file with the Contract Administrator in writing at least the following information, and any other information specified in the contract:

1. The name, address, and telephone number of the contractor and the person representing the contractor.
 2. The signature of the person representing the contractor.
 3. The contract number or other reference such as bid or RFP number, which will identify the contract.
 4. A statement of the legal and/or factual grounds on which the claim is based, including copies of information relevant to the claim.
 5. The form of relief requested.
-

8.02E The Contract Administrator’s Decision

If the claim, controversy or dispute cannot be resolved by mutual agreement, the Contract Administrator shall issue a written decision no later than 60 days after the initial claim, controversy or dispute is filed in writing. This final decision from the Contract Administrator shall include:

- A description of the claim;
- Reference to the pertinent contract provisions;
- A statement of the factual areas of agreement or disagreement;
- A statement of the Contract Administrator’s decision with supporting rationale;
- A copy of this procedure, which outlines the appeal process.

A copy of this decision shall be provided to the contractor, by certified mail – return receipt requested, or by any other method that provides evidence of receipt.

8.02F Issuance of a Timely Decision by the Contract Administrator

The Contract Administrator may extend the time limit for a decision for a reasonable time, not to exceed 30 days, but only with the approval of the Chief Procurement Officer. The Contract Administrator shall notify the contractor in writing that the time for issuance of a decision has been extended and the date in which a decision shall be issued.

If the Contract Administrator fails to issue a decision within the time allowed, the contractor may proceed as if the Contract Administrator had issued a decision adverse to the contractor.

8.02G Appeal of the Decision of the Contract Administrator

The contractor shall have the right to appeal the decision of the Contract Administrator. It shall file its appeal with the Chief Procurement Officer within five days from the date the decision is received. The appeal shall contain all the information listed in section 902.4 as well as a statement of the precise factual or legal error in the decision of the Contract Administrator from which the appeal is taken.

8.02H Issuance of a Timely Decision by the Chief Procurement Officer

The Chief Procurement Officer shall have 30 days in which to render a decision on the appeal. The time limit for a decision by the Chief Procurement Officer may be extended for a reasonable time, not to exceed 30 days, but only upon the approval of the Assistant Superintendent of Operations in consultation with legal counsel. If an extension is granted, the Chief Procurement Officer shall notify the contractor in writing that the time for issuance of a decision has been extended and the date in which a decision shall be issued.

8.02I Chief Procurement Officer’s Decision

This final decision from the Chief Procurement Officer shall include:

- A description of the claim;
- Reference to the pertinent contract provisions;
- A statement of the factual areas of agreement or disagreement;
- A summary of the procurement officer’s decision;
- A statement of the Chief Procurement Officer’s decision with supporting rationale;

A copy of this decision shall be provided to the contractor, by certified mail – return receipt requested, or by any other method that provides evidence of receipt.

8.02J Hearing

The contractor shall make any appeal of the decision of the Chief Procurement Officer within 5 days of the receipt of the decision. The contractor shall file the appeal with the Chief Procurement Officer.

The appeal shall contain all the information listed in section XXXXX as well as a copy of the decision of the Chief Procurement Officer and a statement of the precise factual or

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

legal error in the decision of the Chief Procurement Officer, from which the appeal is taken.

The Chief Procurement Officer shall notify the Governing Board or its designee of the appeal. The Governing Board or its designee shall conduct any hearing on the appeal. The Governing Board or its designee shall issue a written decision within 30 days after the appeal has been filed.

The Governing Board or its designee may extend the time limit for a decision on the appeal for a reasonable time not to exceed 30 days. The Governing Board or its designee shall notify the contractor in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

8.02K Controversies Involving District Claims Against a Contractor

All claims asserted by the District against a contractor that are not resolved by mutual agreement shall promptly be referred by the Contract Administrator to the Chief Procurement Officer for a hearing without regard to the procedures outlined above in sections 902.1 through 902.9.

Procedures 8.02

Section 8.03---Hearing Procedures

8.03A. Hearing procedures

- A. If a hearing is required or permitted under this Article, this Section shall apply. Hearing officers shall be selected pursuant to A.A.C. R7-2-1158.
- B. The Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) shall apply where the Act is not inconsistent with this Article.
- C. The hearing officer shall arrange for a prompt hearing and notify the parties in writing of the time and place of the hearing.
- D. The hearing officer may:
 - 1. Hold pre-hearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
 - 2. Require parties to state their positions concerning the various issues in the proceeding;
 - 3. Require parties to produce for examination those relevant witnesses and documents under their control;
 - 4. Rule on motions and other procedural items on matters pending before such officer;
 - 5. Regulate the course of the hearing and conduct of participants;
 - 6. Establish time limits for submission of motions or memoranda;
 - 7. Impose appropriate sanctions against any person failing to obey an order under these procedures, which may include:

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- a. Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence;
- b. Excluding all testimony of an unresponsive or evasive witness; and
- c. Expelling person from further participation in the hearing;
8. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
9. Administer oaths or affirmations.
- E. A transcribed record of the hearing shall be made available at cost to any requesting party.
- F. Decision by the hearing officer. A decision by the hearing officer shall be sent within 30 days after the conclusion of the hearing to all parties by any means evidencing receipt. A decision shall contain:
 1. A statement of facts;
 2. A statement of the decision with supporting rationale; and
 3. A statement that the parties may file a motion for rehearing within 15 days from the date a copy of this decision is served upon the party.

8.03B Rehearing of decisions

- A. Procedure; grounds. A decision of the hearing officer may be vacated and new hearing granted on motion of the aggrieved party for any of the following causes materially affecting his rights:
 1. Irregularity in the proceedings of the hearing officer or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
 2. Misconduct of the prevailing party.
 3. Accident or surprise which could not have been prevented by ordinary prudence.
 4. Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the hearing.
 5. Excessive or insufficient damages or penalties.
 6. Error of law occurring at the hearing or during the progress or the proceeding.
 7. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- B. Scope. A rehearing may be granted to all or any of the parties and on all or part of the issues in the proceeding for any of the reasons for which rehearings are authorized by law or rule of court. On a motion for a rehearing, the hearing officer may open the decision, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new decision.
- C. Contents of motion; amendment; rulings reviewable.
 1. The motion for rehearing shall be in writing, shall specify generally the grounds upon which the motion is based, and may be amended at any time before it is ruled upon by the hearing officer.
 2. Upon the general ground that the hearing officer erred in admitting or rejecting evidence, the hearing officer shall review all rulings during the hearing upon objections to evidence.
 3. Upon the general ground that the findings of fact or decision are not justified by the evidence, the hearing officer shall review the sufficiency of the evidence.
- D. Time for motion for rehearing. A motion for rehearing shall be filed not later than 15 days after service of the decision upon the party.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- E. Time for serving affidavits. When a motion for rehearing is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the hearing officer for good cause shown or by the parties by written stipulation. The hearing officer may permit reply affidavits.
- F. On initiative of hearing officer. Not later than 15 days after the date of the decision, the hearing officer may order a rehearing for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the hearing officer may grant a motion for a rehearing, timely served, for a reason not stated in the motion. In either case, the hearing officer shall specify in the order the grounds therefor.
- G. Questions to be considered in rehearing. A rehearing, if granted, shall be only a rehearing of the question or questions with respect to which the decision is found erroneous, if separable. If a rehearing is ordered because the damages or penalties are excessive or inadequate and granted solely for that reason, the decision shall be set aside only in respect of the damages or penalties, and shall stand in all other respects.
- H. Motion on ground of excessive or inadequate damages. When a motion for rehearing is made upon the ground that the damages or penalties awarded are either excessive or insufficient, the hearing officer may grant the rehearing conditionally upon the filing within a fixed period of time, not to exceed 15 days, of a statement by the party adversely affected by reduction or increase of damages or penalties accepting that amount of damages or penalties which the hearing officer shall designate. If such a statement is filed with the prescribed time, the motion for rehearing shall be regarded as denied as of the date of such filing. If no statement is filed, the motion for rehearing shall be regarded as granted as of the date of the expiration of the time period within which a statement could have been filed. No further written order shall be required to make an order granting or denying the rehearing final. If the conditional order of the hearing officer requires a reduction of, or increase in, damages or penalties, then the rehearing will be granted in respect of the damages or penalties only and the decision shall stand in all other respects.
- I. Number of motions for rehearing. Not more than two motions for rehearing shall be granted to any party in the same action.
- J. Specifications of grounds of rehearing in order. An order granting a motion for rehearing shall specify with particularity the ground or grounds on which the rehearing is granted.
- K. Final decision.
 - 1. If a motion for rehearing is denied, the final decision denying the motion for rehearing shall be sent within five days after the denial to all parties by any means evidencing receipt. A final decision shall contain a paragraph substantially as follows: "This is the final decision of the hearing officer in the matter of Flagstaff Unified School District."
 - 2. If the motion for rehearing was granted, after the rehearing is completed, a final decision shall be made and shall be sent within five days after the conclusion of the rehearing to all parties as required in subsection (K)(1). A final decision shall contain:
 - a. A statement of facts;
 - b. A statement of the decision with supporting rationale; and
 - c. A paragraph substantially as stated in subsection (K)(1).

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

8.03C Judicial review

Any final decision made as a result of a hearing held pursuant to this Article is subject to judicial review in accordance with A.R.S. Title 12, Chapter 7, Article 6.

8.03D Exclusive remedy

This Article (R7-2-1001 et seq.) provides the exclusive procedure for asserting a cause against the school district and its governing board arising in relation to any procurement conducted under this Article.

Section 8.04---Unauthorized Purchases

Definition

(a) An "Unauthorized Purchase" is an agreement, a commitment, or an order for goods or services, or a change to existing contract by any person who does not have express written delegation of procurement authority to bind FUSD. This includes changes under existing contracts that are made by persons who do not have delegated purchasing authority. Unauthorized purchases are not binding on FUSD and the vendor may be advised to seek payment from the employee.

(b) Unauthorized Purchases include:

- (1) Placing an order without an approved Purchase Order.
- (2) Placing an order either before or after submitting the requisition on the assumption that a PO has or will be approved.
- (3) Over spending the authorized amount of a Blanket Purchase order.
- (4) Coercing a vendor to initiate an order on the promise that a PO is forthcoming.
- (5) Using personal funds to make a purchase of goods or services that would normally require the involvement of purchasing to secure competition, approve sole source or otherwise comply with FUSD policy and procedure with the intent to seek personal reimbursement.

Processing an Unauthorized Purchase

When an unauthorized purchase is identified an "Unauthorized Purchase Letter" will be sent via email to all involved parties. The letter will outline the circumstances surrounding the unauthorized purchase and provide instructions for providing a response. Prior to a purchase order being issued or a payment being authorized, MCM must receive a copy of written acknowledgement and approval from the Superintendent.

Procedures 8.03

Chapter Nine: Intergovernmental Regulations

Section 9.01---Cooperative and Joint Purchasing Agreements

The District is authorized to utilize various cooperative and joint purchase contracts for the procurement of goods, equipment and services.

These agreements are negotiated on the behalf of groups of educational institutions or governmental subdivisions. Some of these groups require membership in order to access these contracts, while others are purely voluntary and are available to all political subdivisions.

It is the intent of the District to support these contracts whenever possible. This includes assisting in the development and bidding phases as well as in reporting compliance with the contracts. The District however, reserves the right to obtain the best possible price and quality even if it means not utilizing these contracts.

The District also encourages bidding cooperatively to allow other agencies, districts, and governmental sub-divisions to access certain District contracts. The responsibility for placing orders, expediting, problem resolution, and payment shall remain with the organization that accesses the District contract.

9.01A Cooperative Purchasing Authorized

A school district may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any materials, services, or construction with one or more public procurement units in accordance with an agreement entered into between the participants. An agreement entered into as provided in Sections R7-2-1191 through R7-2-1195 of the A.A.C. is exempt from A.R.S. § 11-952, subsections (D), (E) and (F). Parties under a cooperative purchasing agreement may:

1. Sponsor, conduct, or administer a cooperative agreement for the procurement or disposal of any materials, services or construction.
2. Cooperatively use materials or services.
3. Commonly use or share warehousing facilities, capital equipment and other facilities.
4. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
5. On request, make available to other public procurement units informational, technical or other services that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services. The activities described in subsections (1) through (5) do not limit what parties may do under a cooperative purchasing agreement.

Procedures 9.01

Chapter Ten: Ethics in Public Contracting

Section 10.1---Code of Ethics

All employees of the Flagstaff Unified School District that participate in the procurement process, MCM staff as well as other District employees, will follow the following Code of Ethics based upon the Codes of the National Association of Educational Buyers and the National Institute of Governmental Purchasing.

As an employee, he/she:

- A. Believes in the dignity and worth of the services rendered by the organization and the social responsibilities assumed as a trusted public servant.
- B. Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- C. Believes that no employee shall, at any time or under any circumstances, accept directly or indirectly, gifts, gratuities or other things of value from suppliers.
- D. Seeks or dispenses no personal favors. Handles each administrative problem objectively, empathetically and without discrimination.
- E. Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- F. Obtains maximum ultimate value from each dollar expended for products or services.
- G. Grants equal consideration to all competitive bidders; each transaction is evaluated on its own merit and fair, ethical, and legal trade practices are followed.
- H. Requires honesty from sales representation, whether through verbal or written statement, advertisement, or product sample.
- I. Uses only by consent, those original ideas and designs devised by one vendor for competitive purchasing purposes.
- J. Cooperates with professional and trade organizations and government and private agencies engaged in furthering the promotion and development of the Purchasing profession.

Section 10.2---Specifics to the NIGP Code of Ethics

RESPONSIBILITY TO YOUR EMPLOYER

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- Follow the lawful instructions or laws of the employer.
- Understand the authority granted by the employer.
- Avoid activities, which would compromise or give the perception of compromising the best interest of the employer.
- Reduce the potential for any charges of preferential treatment by actively promoting the concept of competition.
- Obtain the maximum benefit for funds spent as agents for the employer.

CONFLICT OF INTEREST

- Avoid any private or professional activity that would create a conflict between your personal interest and the interests of your employer.
- Avoid engaging in personal business with any company that is a supplier to your employer.
- Avoid lending money to or borrowing money from any supplier.

PERCEPTION

- Avoid the appearance of unethical or compromising practices in relationships, actions and communications.
- Avoid business relationships with personal friends. Request a reassignment if the situation arises.
- Avoid noticeable displays of affection, which may give an impression of impropriety.
- Avoid holding business meetings with suppliers outside the office.
- When such meetings do occur, the meeting location should be carefully chosen so as not to be perceived as inappropriate by other persons in the business community or your peers.

GRATUITIES

- Never solicit or accept money, loans, credits or prejudicial discounts, gifts, entertainment, favors or services from your present or potential suppliers which might influence or appear to influence purchasing decisions.
- Never solicit gratuities in any form for yourself or your employer. Items of nominal value offered by suppliers for public relations purposes are acceptable when the value of such items has been established by your employer and would not be perceived by the offeror, receiver or others as posing an ethical breach.
- Gifts offered exceeding nominal value should be returned with an explanation or if perishable either returned or donated to a charity in the name of the supplier.
- In the case of any gift, care should be taken to evaluate the intent and perception of acceptance to ensure that it is legal, that it will not influence your buying decisions, and that it will not be perceived by your peers and others as unethical.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

BUSINESS MEALS

- There are times when during the course of business it may be appropriate to conduct business during meals. In such instances, the meal should be for a specific business purpose.
- Avoid frequent meals with the same supplier.
- The purchasing professional should be able to pay for meals as frequently as the supplier. Budgeted funds should be available for such purposes.

CONFIDENTIAL INFORMATION

- Keep bidders proprietary information confidential.
- Develop a formal policy on the handling of confidential information.

RELATIONSHIP WITH THE SUPPLIER

- Maintain and practice, to the highest degree possible, business ethics, professional courtesy, and competence in all transactions.
- Association with suppliers at lunches, dinners or business organization meetings is an acceptable professional practice enabling the buyer to establish better business relations provided that the buyer keeps free of obligation. Accordingly, it is strongly recommended that if a seller pays for an activity that the buyer reciprocate.
- Purchase without prejudice, striving to obtain the maximum value for each dollar of expenditure.
- Preclude from showing favoritism or be influenced by suppliers through the acceptance of gifts, gratuities, loans or favors. Gifts of a nominal value that display the name of a firm which is intended for advertisement may or may not be accepted in accordance with the recipients own conscience or jurisdictional rules.
- Adhere to and protect the suppliers business and legal rights to confidentiality for trade secrets, and other proprietary information. Refrain from publicly endorsing products.

RELATIONSHIP WITH THE EMPLOYER

- Remain free of any and all interests and activities, which are or could be detrimental or in conflict with the best interests of the employer.
- Refrain from engaging in activities where the buyer has a significant personal or indirect financial interest.
- Exercise discretionary authority on behalf of the employer.
- Avoid acquiring interest or incurring obligations that could conflict with the interests of the employer.

RELATIONSHIPS WITH OTHER AGENCIES AND ORGANIZATIONS

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

- A buyer shall not use his position to exert leverage on individuals or firms for the purpose of creating a benefit for agencies or organizations that he may represent.
- All involvement and transactions shall be handled in a professional manner with the interest of the buyers employer taking precedent.

RELATIONSHIP WITH PROFESSIONAL PURCHASING ORGANIZATIONS AND ASSOCIATIONS

- It is the obligation and the responsibility of the buyer, through affiliation with professional organization, to represent that organization in a professional and ethical manner.
- A buyer shall not use his position to persuade an individual or firm to provide a benefit to an organization.

POLICY

It is the policy of NIGP that any member of the Institute who personally, or on behalf of his local chapter, is involved in the process of acquiring advertisers and/or exhibitors on behalf of the Institute, shall act only in the capacity of providing referrals of potential or interested parties to the Institute. As a result of such referral, should the Institute form a contractual obligation, appropriate credit shall be given to the individual or chapter.

Section 10.01---Conflict of Interest—Employees

10.01A Purpose

All FUSD employees must make known any actual or potential conflicts of interest by completing the form entitled, “Disclosure of Substantial Interest.” The responsibility to keep this form updated lies with all FUSD employees and elected officials. Notice will be distributed annually, reminding all employees and Governing Board members of their need to complete this form. It is the responsibility of each person to keep the disclosure form current.

10.01B Applicability

All Governing Board-Approved employees shall annually complete and submit a conflict of interest form and shall submit an acknowledgement that they have read and understand the District’s Conflict of Interest Policy. Updated disclosures shall be made during the year by the employee as needed if circumstances change. Other employees may also be required by the Director of Materials and Contract Management to annually complete these forms, given the nature of their job responsibilities and the potential for conflicts of interest.

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

10.01C Procurement

Any FUSD employee who has, or whose relative has a substantial interest in any contract with, sale to, purchase from or service for the District shall refrain from participating in any such contract, sale, procurement, or service. Participation includes initiating, signing, or acting in a decision-making role.

The procurement of supplies, equipment, or services from any employee of the District is not authorized unless it is made through public competitive bidding. The Materials & Contract Management is not required to request competitive bids for procurement of small dollar value merely to allow District employees to bid.

10.01D Record Keeping, Reporting, and Review

The Materials & Contract Management shall maintain the listing of disclosure forms and shall refer to it as part of the normal purchasing and contracting procedures. This is done to identify all potential conflicts of interest. All related party transactions shall be recorded in the Materials & Contract Management.

Copies of the records shall be provided to the FUSD Human Resources Department.

10.01E Basis of Procedure

The basis for this department procedure is the Governing Board Policy on Procurement Conflict of interest.

Procedures 10.1

Section 10.02---Code of Conduct—Employees

10.02A Regulations:

The following conduct will be expected of all persons who are engaged in the awarding and administration of contracts.

10.02B Procedures:

The Materials and Contract Management Department seeks to conduct all procurement procedures:

in compliance with stated regulations; and

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

to prohibit conflicts of interest and actions of employees engaged in the selection, award and administration of contracts.

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

The FUSD employees, officers or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, organizations may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.

10.02C Disciplinary Action:

Disciplinary actions for violation of the Standards of Code of conduct of the Flagstaff Unified School District may be one or more of the following actions:

1. Loss of privileges to participate in any future procurement actions
 2. Reduction of salary, or from any other amounts payable to employee, an amount to the total of the improper purchases
 3. Possible termination of employment
-

Procedures 10.02

Section 10.03---Conflict of Interest—Consultants

No individual or firm, including but not limited to consultants, architects, engineers, designers and other individuals or organizations preparing specifications or plans under contract to FUSD, shall receive a benefit, direct or indirect, from the utilization of such specifications or plans.

A similarly worded statement shall be included in all Requests for Proposal or Invitations for Bid that involve the writing or preparation of plans or specifications.

Procedures 10.03

Section 10.04---Purchasing for Employees and Private Individuals



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

MCM staff will not negotiate or request special pricing or discounts on the behalf of any FUSD employee, faculty member, or private individual or conduct any personal purchases.

Any discounts or special programs offered to the faculty or staff by the vendor will be the sole responsibility of the vendor and the faculty and staff, and will not be processed through purchasing channels. The offer of incentives or discounts by vendors to faculty and staff will not be considered in the award of any contract or agreement.

Procedures 10.04

Section 10.05---Evaluation Committee Member Statement Form for RFP/IFB Review

Buyers should utilize a form titled, “Evaluation Committee Member Statement,” as part of all RFP/bid review processes.

This form covers the rules on confidentiality of the process prior to award. It includes the need to not contact or communicate with the proposers/bidders and not to communicate with employees outside of the committee about the process in progress.

Each committee member should sign a copy of the form. The forms should be kept as part of the bid/RFP file.

In addition, any committee member is instructed to disclose any actual or potential conflict of interest relating to the RFP or IFB.

Procedures 10.05

MATERIALS MANAGEMENT

Chapter Eleven: Materials Management and Surplus Property

Section 11.01---Delegation of Authority

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

The Surplus Property Manager is delegated the responsibility to act on behalf of the district on all matters relating to the disposition of excess and surplus materials.

This responsibility is delegated from the Director of Materials and Contract Management to the Surplus Property Manager.

No school or department shall transfer, sell, trade-in, donate or otherwise dispose of materials owned by the District without written authorization of the responsible school principal or department head assigned that responsibility. These approvals must be received prior to acceptance of the request by the Surplus Property Manager.

Procedures 11.01

Section 11.02---Disposition of Surplus Materials

Schools and departments shall notify the FUSD Surplus Property Manager of all excess and surplus materials on the appropriate forms.

The Surplus Property Manager shall determine the fair market value of excess and surplus property. Methods used for determining value may include quotations, estimates, use of reference guides and other publications, as well as market indexes.

The Surplus Property Manager shall facilitate the transfer of excess or surplus materials to or between schools and departments, or to eligible non-profit educational institutions. These excess or surplus materials must be offered to District schools or departments operations prior to offering them to eligible non-profit educational institutions. Eligible non-profit educational institutions receiving surplus materials must sign an agreement stating that they will not sell, dispose, or transfer this equipment for the period of one year.

Surplus materials shall be offered through public auction, competitive sealed bids, established markets, or posted prices. If unusual circumstances render the above methods impractical, the Surplus Property Manager may employ other disposition methods, including appraisal or barter, provided the Surplus Property Manager makes a written determination that such procedure is advantageous to the district.

Methods of disposition of surplus materials:

1. Public auctions may be used to dispose of surplus materials. These auctions shall be advertised at least two (2) times prior to the auction date, the last notice to be no less than six days prior to the auction date. All the terms and conditions of any sale shall be available to the public at least 24 hours prior to the auction date.
2. Competitive sealed bidding may be used to dispose of surplus materials. Notice for sale bids shall be publicly available from the Surplus division at least ten days before the date set for opening bids. Notice of the sale bids shall be mailed to prospective bidders, including those bidders on lists maintained by the Surplus Division. The notice for sale bids shall list the materials offered for sale, their

Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

location, availability for inspection, the terms and conditions of sale, and instructions to bidders including the place, date, and time set for bid opening. Bids shall be opened publicly.

The award shall be made in accordance with the provisions of the notice for sale bids to the highest responsive and responsible bidder, provided that the price offered by such bidder is acceptable to the Surplus Property Manager. If the Chief Procurement Officer determines that the bid is not advantageous to the district, such officer may reject the bids in whole or in part and may re-solicit bids; or such officer may negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder's price.

3. Trade-in options may be used to dispose of surplus materials. Before surplus materials are disposed of by trade-in to a vendor for credit on an acquisition, the Surplus Property Manager and Chief Procurement Officer or designee shall approve such disposal. The Surplus Property Manager shall base this determination on whether the trade-in value is expected to exceed the value realized through the sale or other disposition of such materials.

Procedures 11.02

Section 11.03---Employee Participation in Surplus Property Sale

An employee of the owning or disposing school or department shall not directly or indirectly purchase or agree with another person to purchase surplus property if said employee is, or has been, directly or indirectly involved in the purchase, disposal, maintenance, or preparation for sale of the surplus material.

Procedures 11.03

Section 11.04---Surplus Material Acquisition Programs

The District may acquire surplus materials from the United States government and the State of Arizona as well as any other governmental sub-division allowing the transfer or sale of surplus to similar organizations, and may distribute surplus materials as may be usable and necessary for public purposes to a school or department of the District.

Authority for Transfer of Material

The Surplus Property Manager may confer on any employee, authority to secure the transfer of surplus materials from the above listed agencies or organizations. Prior authorization must be granted for each transaction.



Flagstaff Unified School District No. 1

Materials and Contract Management

“Policies and Procedures Manual”

Procedures 11.04

Section 11.05---Fees and Charges

The MCM department may make proper charges and assess proper fees for the acquisition, receipt, warehousing, rehabilitation, delivery, distribution, or transfer of excess and surplus materials. Such fees and charges shall be fair and equitable and shall be based on services performed including acquisition, receipt, warehousing, rehabilitation, delivery, distribution, or transfer. A reasonable charge shall be made for maintenance and repair services.

All moneys coming into the department derived from surplus materials fees and charges shall be placed in a surplus materials revolving fund. Moneys in the fund shall be available for the purpose of carrying out the provisions of these procedures.

Procedures 11.05

Section 11.06---Reports

Monitoring reports shall be provided at the request of the Assistant Superintendent of Operations. These reports shall include lists of employees and relatives of employees purchasing surplus materials. These shall be provided at least quarterly, if an auction or other sales occur during that time.

Procedures 11.06