

The Charter Institute at Erskine Institute Procurement Policy and Procedures

OFFICE OF RESPONSIBILITY: Finance

EFFECTIVE DATE: 10/01/2018

THE CHARTER INSTITUTE AT ERKSINE RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART.

POLICY

To ensure that the Institute will obtain the maximum value for each dollar expended and that all equipment, materials, and services are procured in a systematic manner, the Finance Office must employ selective competitive solicitation by qualified manufacturers and suppliers as stipulated by Institute and state requirements. The Superintendent and the Director, with joint agreement, are empowered to make non-material modifications to Institute policies without additional approval of the Board of Directors.

The goal of the Finance Office is to ensure the best interest of the Institute is guaranteed through intelligent action and fair dealing. All of the foregoing and what is outlined in the pages that follow are in accordance with the Institute's Procurement Code and Regulations which is substantially similar to the South Carolina Consolidated Procurement Code as approved by the South Carolina Legislature.

PROCEDURES

General Information

The Institute is required by Section 11-35-70 of the South Carolina Code of Laws to maintain and adhere to a Procurement Code and Regulations. This is because the Institute is spending public funds.

Any product, service or any other expenditure of Institute funds must be processed in accordance with the Procurement Code. The level of competitive solicitations varies by dollar amount.

Individuals shall not commit any Institute money before a Purchase Order is issued. Individuals that authorize material or services to be delivered or performed before a Purchase Order is issued, may be held responsible for the paying costs related to the commitment.

Objectives

The Institute adheres to the following objectives:

- Procurements will be completely impartial based strictly on the merits of supplier and contractor proposals and applicable related considerations such as delivery, quantity, etc.
- Make all purchases in the best interests of the Institute and its funding sources.
- Obtain quality supplies/services needed for delivery at the time and place required.
- Buy from responsible and dependable sources of supply.
- Obtain maximum value for all expenditures.
- Deal fairly and impartially with all vendors.
- Be above suspicion of unethical behavior at all times; avoid any conflict of interest, related parties or even the appearance of a conflict of interest in the Institute supplier relationships.

Conflict of Interest

All Institute employees and members of the Institute's Board of Directors are expected to use good judgment, to adhere to high ethical standards, and to act in such a manner as to avoid any actual or potential conflict of interest. A conflict of interest occurs when the personal, professional, or business interests of an employee or Board Member conflict with the interests of the organization. Both the fact and the appearance of a conflict of interest should be avoided. See the Institute Conflict of Interest Policy and Procedures.

Standards of Conduct

In accordance with 2 C.F.R. §200.318(c)(1), the Institute maintains the following standards of conduct covering conflicts of interest and governing the actions of its 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 award 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 officers, employees, and agents of the Institute may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value. See Institute Conflict of Interest Policy and Procedures for definitions of "nominal value" and "anything of value."

Organizational Conflicts

If a school has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the school must include written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 C.F.R. §200.318(c)(2).

Disciplinary Actions

The Charter Institute at Erskine will adhere to disciplinary actions related to Standards of Conduct as outlined in the Employee Handbook.

Mandatory Disclosure

Upon discovery of any potential conflict, the Institute will disclose in writing the potential conflict to the federal awarding agency in accordance with applicable federal awarding agency policy. The Institute also discloses in writing to the federal awarding agency or pass-through all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. 2 C.F.R. §§ 200. 112- 200.113.

Small Purchases (not exceeding \$50,000)

The Institute will provide a systematic and businesslike method of obtaining and supplying materials and equipment for the Institute. Any single procurement not exceeding fifty thousand

dollars (\$50,000.00) may be made in accordance with this paragraph; provided however that such procurement shall not be artificially divided to constitute a small purchase. A purchase order is required for all purchases other than for incidentals where purchase orders are not accepted. All schools must have a Procurement Policy in place and periodically review the policy to ensure that it is meeting the State Procurement Code.

Micro-purchases not exceeding **ten thousand dollars (\$10,000.00) in total value** may be accomplished with one quote if the prices is considered to be reasonable. The Institute shall annotate the purchase requisition as follows: "Price is fair and reasonable" and sign such purchase requisition. Such purchases shall be distributed equitably among qualified suppliers. The purchase must be approved by the responsible department in charge, Finance Office, Director, and Chief Executive Officer/Superintendent.

Small purchases from **ten thousand dollars (\$10,000.01) to twenty-five thousand (\$25,000.00) in total value** may be accomplished if written quotes from a minimum of three qualified sources of supply are made and it is documented that the procurement is to the advantage of the Institute, price and other factors considered, including administrative costs of the purchase. Such documentation shall be attached to the purchase requisition. The purchase must be approved by the responsible department in charge, Finance Office, Director, and the Chief Executive Officer/Superintendent.

Small purchases from **twenty five thousand and 1/100 dollars (\$25,000.01) to fifty thousand dollars (\$50,000.00)** must be accomplished with a written Request for Proposal. The purchase must be documented that the procurement is to the advantage of the Institute, price and other factors considered, including the administrative costs of the purchase. Such documentation shall be attached to the purchase requisition. The purchase must be approved by the responsible department in charge, Finance Office, Director, and the Chief Executive Officer/Superintendent. The Director/Chief Executive Officer/Superintendent will list the purchase as an informational item to the Institute Board of Directors.

Recommendations for engaging a consultant(s) or purchasing of services or products exceeding the total annual cost of \$50,000.01 **MUST** be brought to the Board for approval. The board will make the final decision. Under no circumstances, shall the Board delegate their responsibilities to third party.

Competitive Sealed Proposal (In Excess of \$50,000)

Competitive Sealed Bidding is used to initiate competitive procurement in excess of \$50,000. Competitive sealed proposals should be used when both the needs of the school district and the costs to satisfy those needs are important, and the methods or items to satisfy those needs are not clear and precise. While price is an important factor, it is considered less significant than fully meeting the Institute's needs. The ultimate purpose of this method of procurement is to provide flexibility to the Institute while taking into consideration various options and the costs of each. Proposals shall be solicited through a request for proposals.

Request for Proposal

The request for proposal shall be the document used to initiate small purchase over \$25,000.01 and a competitive sealed proposal procurement and shall include the following:

- Instructions and information to vendors concerning the proposal submission requirements, including the time and date set for receipt of the proposal, the individual to whom the proposal is to be submitted, the address of the office to which proposal is to be delivered, and any other special information
- The purchase description, specifications, delivery and performance schedule, and such inspection and acceptance requirements as are not included in the purchase descriptions
- All contract terms and conditions, including warranty and bonding or other security requirements as applicable
- Instructions to vendors to visibly mark as confidential each part of their proposal which they consider to be proprietary information
- A statement of a vendor's right to protest

A cost or price analysis will be performed for noncompetitive proposals when the price exceeds \$250,000. 2 C.F.R. § 200.324(a). A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements. The method and degree of analysis is dependent on the facts surrounding the procurement situation. 2 C.F.R. § 200.323(a).

Exceptions to the Procurement Code (Non-Federal Funds Only)

The Institute may exempt specific supplies or services from this Policy. The following supplies and services are exempted from this Policy:

- a. Copyrighted Educational Materials to include, but not limited to: Books, dictionaries, textbooks, newspapers, diplomas, sheet music; professional journals, technical pamphlets, periodicals, subscriptions; educational films, filmstrips, slides and transparencies; video tapes, cassettes, DVDs; standardized testing materials
- b. Copyrighted Technology Materials to include, but not limited to: Computer-assisted instructional materials, interactive video programs; CD-ROM documents, databases; District-adopted instructional software, including site licenses or other support services or related information/materials only available or provided by the software provider
- c. Medical and/or Psychological Services to include but not limited to: Licensed/certified medical doctors, physicians, nurses, psychiatrists, psychologists, school psychologists, behaviorists, counselors, optometrists, dentists, veterinarians, etc.; hospital and clinical services, occupational and physical therapy, orientation and mobility; speech, language and audiologist services;
- d. Governmental Services to include but not limited to: services and supplies provided by the Federal government, State agencies, county, city or town governments, and special purpose Districts; payments of taxes, social security, annuities, credit unions; school resource officer services; professional artists utilized by SC Arts Commission
- e. Educational Services to include, but not limited to: Contractual, cooperative agreements, services and supplies for provision of services to students; tuitions paid to institutions of higher education; evaluation services such as visiting committees of a state or nationally recognized accrediting agencies; Academic

- performance evaluation and consulting services; executive search and recruitment services
- f. Policy, Legal and Financial Services to include but not limited to: Attorney services (subject to Board or Superintendent approval), court recorders, expert witness services; Bond rating services; Legislative consultant; Advertising; Primary and reinsurance coverage; Auditors (subject to Board or Superintendent approval); Substitute Staffing services; Board Governance consultants and facilitators; Securities Underwriters, Financial Advisors, and similar services provided
 - g. Staff Development to include but not limited to: Professional Services, training provided by consultants, certified teachers / trainers or District personnel; Training materials secured or prepared for instructional purposes; workshop, conference, seminar registrations; travel
 - h. Student Services to include but not limited to: Pupil Activity Funds; test scoring services; canine drug and/or weapon detection services and related support services; homebound services; home visits; instruction provided by certified teachers
 - i. Professional dues and membership fees
 - j. Clergy
 - k. Travel
 - l. Other Materials and Services: Utilities and energy expenses to include, but not limited to fuel, propane, electric, telephone, cell phones, water/sewer; art reproductions; emergency repairs for buses and fleet vehicles; items purchased for resale (i.e., school store items, yearbooks); livestock, feed and veterinary supplies; mail and delivery services; purchases and sales between South Carolina public school districts or state agencies
 - m. Diplomas, Student Instruction Activities/Camps/Seminars, Yearbooks, Graduation Supplies, Class Rings, Fund Raisers and School Pictures
 - n. Advertisement Services
 - o. Perishable Foods (milk, fresh fruits, vegetables, meats, eggs, fish – any item with an expiration date)
 - p. Goods and services provided by the Division of General Services
 - q. Surplus items that are to be given/donated to other school districts, municipalities and governmental agencies

State Contract

Items on state contracts are not subject to competition or additional approval as these have been vetted and have competed at the State level. This applies to federal funds as well as other sources.

Sole Source and Emergency Procurement

This method of procurement is the least competitive and, therefore, should have limited use. In those instances, however, where the Institute's needs can only be met by one method, means or item, sole source is an appropriate and necessary method of procurement. Such determination as to whether a procurement shall be made as a sole source shall be made by the Institute. Such determination and the basis thereof shall be in writing and shall include an explanation as to why no other source will be suitable or acceptable to meet the need.

A contract may be awarded for a supply, service or construction item without competition when the Institute determines in writing that there is only one source for the required supply, service or construction item.

The Institute may make or authorize others to make emergency procurements when there exists a threat to public health, welfare or safety under emergency conditions, or where normal daily operations are affected; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. If emergency considerations exist after an unsuccessful attempt to use competitive sealed bidding, an emergency procurement may also be made. A written determination shall be made stating the basis for an emergency procurement and for the selection of the particular vendor. Emergency procurements shall be limited to that of supplies, services or construction items necessary to meet the emergency. Such procurement shall be presented to the board at its next board meeting.

Noncompetitive Procurement (Federal Funds)

All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with 2 C.F.R §§ 200.319 and 200.320. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- Any arbitrary action in the procurement process.

There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

- Micro-purchases
- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the Institute; or
- After solicitation of a number of sources, competition is determined inadequate.

When using federal funds, the following must also be met to ensure adequate competition.

- **Geographical Preferences Prohibited:** The Institute must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- **Domestic Preference for Procurement:** The Institute, to the greatest extent practicable, provides a preference for the purchase, or acquisition, of goods and products produced in the United States. The District includes this preference in all contracts and purchase orders for work or products using federal funds.
- **Prohibition on Certain Telecommunications Companies:** The Institute will not procure, enter into a contract to procure, or extend or renew a contract to procure covered telecommunications and video surveillance equipment or services described in Public Law 115-232, section 889. Covered telecommunications and video surveillance equipment or services are those produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company, or any subsidiary or affiliate of such entities. 2 C.F.R. § 200.216. To ensure compliance, the Institute will check sam.gov and make certain the vendor for telecommunications and video surveillance equipment is not excluded under this prohibition.
- **Never Contract with the Enemy:** The Institute complies with the regulations implementing Never Contract with the Enemy in 2 CFR part 183 prohibiting contracts, grants and cooperative agreements that exceed \$50,000, are performed outside the U.S. and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities. 2 C.F.R. §200.215.
- **Prequalified Lists:** The Institute must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the District must not preclude potential bidders from qualifying during the solicitation period.

Public Notice

Public notice of the invitation for proposal shall be given. Such notice may include publication on the Institute's website. Proposal time will be set to provide the vendors a reasonable time to prepare their proposals. A minimum of ten (10) days shall be provided by the Institute.

Bid Opening

Proposals over \$50,000 shall be publicly opened, but only the names of the offerors disclosed at the proposal opening. Contents of competing proposals shall not be disclosed during the process of opening or negotiation. All proposals shall be recorded at the time of opening and shall be opened for public inspection after contract award. Proprietary or confidential information marked as such in each proposal shall not be disclosed without written consent of the offeror.

Request for Qualifications

Prior to soliciting proposals, and after giving adequate public notice, the Institute may issue a request for qualifications, experience, and ability to perform the requirements of the contract from prospective offerors. At a minimum, the request shall contain a description of the goods or services to be solicited by the invitation for proposal and the general scope of the work. The request shall also contain the deadline for submission of information and how prospective offerors may apply for consideration.

After the Institute receives the responses, it will rank prospective offerors from most qualified to least qualified on the basis of the information provided. The Institute shall then invite vendors from at least the top two prospective offerors.

Negotiations with responsible offerors and revisions to proposals

As provided in the request for proposals, negotiations may be conducted with any offeror submitting a proposal appearing to be eligible for contract award pursuant to the selection criteria set forth in the request for proposals. All apparently eligible offerors shall be afforded the opportunity to submit best and final proposals if negotiations with any other offeror result in a material alteration to the request for proposals and such an alteration has a cost consequence that may alter the order of offerors' price quotations contained in their initial proposals. In conducting negotiations, there shall be no disclosure of information derived from proposals submitted by any competing offerors

Evaluation

The request for proposals shall state the evaluation factors in relative order of importance. Price may not be an initial evaluation factor. Each responsive and responsible offeror's proposal shall be evaluated. The proposal shall then be ranked in accordance with the results of such evaluation.

Award

The award shall be made to the responsible offeror whose proposal is determined in writing to be most advantageous to the Institute, taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

Contracts

All contracts must be approved by the Superintendent upon execution. Contracts may be amended upon the approval of the Superintendent and Finance Office. The Institute will maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders, including compliance with Davis-Bacon, should construction contract be in excess of \$2,000.00. All vendors will be verified to be in good standing using Sam.Gov. Vendors not in good standing, who have been debarred, or who are in danger of debarment, will not be utilized.

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