

### **Vallivue School District 139**

The board may enter into service contracts with independent contractors as necessary for the operation of the district. The board will comply with the requirements of Idaho Code Section 67-2800, *et seq.*, relative to competitive bidding for such contracts and this district's Policy 851, entitled "Supplemental Bidding Procedures."

### **SERVICE CONTRACTS EXCLUDED FROM COMPETITIVE BIDDING**

The district is not required to engage in competitive bidding, pursuant to Idaho Code Section 67-2803, as follows:

1. Contracts for services, regardless of their nature, valued at less than twenty-five thousand dollars (\$25,000); and
2. Contracts for personal or professional services to be performed by an independent contractor. Contracts with certain public works construction professionals must comply with requirements as set forth in "Contracts with Certain Public Works Construction Professionals" section of this policy.

### **BUS TRANSPORTATION SERVICES**

In the event the district anticipates expending over twenty-five thousand dollars (\$25,000) through a contract for bus transportation services, Idaho Code Section 33-1510 will be followed.

### **SERVICE CONTRACTS VALUED BETWEEN \$25,000 AND \$50,000**

When the board contemplates entering into a service contract for other than professional or personal services, valued in excess of twenty-five thousand dollars (\$25,000) but not to exceed fifty thousand dollars (\$50,000), it will solicit competitive bids.

#### Bid Solicitation

The written solicitation for bids will be sent to no fewer than three (3) vendors by electronic or physical delivery. The solicitation will describe the services to be provided in sufficient detail to allow a vendor of such services to understand what the board seeks to procure, the electronic or physical delivery method(s) authorized to submit a bid, and the date and time by which the board clerk must receive a bid proposal. The time to respond to the solicitation must be reasonable; such time will not be less than three (3) business days, except in the event of an emergency.

#### Objections

The board clerk must receive any written objections to specifications or bid procedures at least one (1) business day before the date and time the bids are due to be received.

#### Contract Award

Upon receipt of the written bids, the clerk will compile and submit the written bids to the board or designee, which will approve the responsive bid proposing the lowest price or reject all bids and publish notice for bids, as before.

If the board finds that it is impractical or impossible to obtain three (3) bids for the proposed services, the board may acquire such services in any manner the board deems best from a qualified vendor quoting the lowest price. When fewer than three (3) bids are considered, the board will document the efforts undertaken to obtain at least three (3) bids. Such documentation will be maintained for at least six (6) months after any such procurement is made. If two (2) or more price quotations are the same and both constitute the lowest responsive bids, the board has discretion to accept the bid it chooses.

### **SERVICE CONTRACTS VALUED IN EXCESS OF \$50,00**

When the board contemplates entering into a service contract for other than professional or personal services, valued in excess of fifty thousand dollars (\$50,000), an open competitive sealed bid process will be utilized.

#### Bid Solicitation

The written request for bids, and notices thereof, will succinctly describe the services to be provided and set a date, time, and place for the opening of bids. Two (2) notices soliciting bids must be published in the newspaper of general circulation in the district. The first notice must be published at least two (2) weeks before the date for opening bids, with the second notice to be published in the succeeding week at least seven (7) days before the date that bids are scheduled to be opened. Copies of specifications, bid forms, bidder's instructions, contract documents, and general and special instructions will be made available upon request by any interested bidder. Bids that do not substantially comply with the bid forms will not be considered.

#### Objections

The board clerk must receive any written objections to specifications or bid procedures at least three (3) business days before the date and time the bids are due to be received.

#### Bid Security

If the board deems it is in the district's best interest, it may require bidders to provide bid security in an amount equal to at least five percent (5%) of the amount bid. If required, a bid will not be considered unless one (1) of the forms of bidder's security is enclosed with it. The board may require that the bid security be in one of the following forms:

Cash; a cashier's check payable to the district; a certified check payable to the district; or a bidder's bond executed by a qualified surety company, payable to the district.

#### Contract Award

Sealed bids will be opened in public at the date, time, and place specified in the notice, thereafter to be compiled and submitted to the board. Any bid received by the board may not be withdrawn after the time set in the notice for opening of bids.

In its discretion, the board may reject all bids and re-bid, or may, after finding it to be a fact, pass a resolution declaring that the subject goods can be procured more economically on the open market. If two or more bids are the same and both constitute the lowest responsive bids, the board may accept the one it chooses.

If the board chooses to award the contract to a bidder other than the apparent low bidder, the board will declare its reason(s) on the record and communicate such reason(s) in writing to all who have submitted a competing bid.

#### Failure to Execute Contract

If the successful bidder fails to execute the contract, the amount of his bidder's security may be forfeited to the district at the sole discretion of the board and, thereafter, the proceeds may be deposited in a designated fund out of which the reasonable expenses for procuring substitute performance are paid.

The board may, on the refusal or failure of the successful bidder to execute the contract, award the contract to the next lowest qualified bidder. If the board awards the contract to the next lowest qualified bidder, the amount of the lowest qualified bidder's security may be applied by the board to the difference between the lowest responsive bid and the next lowest responsive bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used, less reasonable administrative costs not to exceed twenty-five percent (25%) of the amount of the bidder's security.

#### Objection to Contract Award

If any participating bidder objects to the award of a contract, such bidder must submit a written response to the board's notice within seven (7) calendar days of the date of transmittal of the notice, setting forth in such response the express reason(s) that the award decision of the board is in error. Thereafter, staying performance of any procurement until after addressing the contentions raised by the objecting bidder, the board will review its decision and determine whether to affirm or modify the award, or re-bid the contract, setting forth its reason(s) therefor. After completion of the review process, the board may proceed as it deems to be in the public interest.

### **CONTRACTS WITH CERTAIN PUBLIC WORKS CONSTRUCTION PROFESSIONALS**

The board may negotiate contracts or agreements for professional engineering, architectural, landscape architectural, construction management, and professional land surveying services on the basis of demonstrated competence and qualifications for the type of services required at fair and reasonable prices, utilizing the following process:

1. The board will follow the statutory guidelines in the securing of all contracts for professional engineering, architectural, landscape architectural, construction management, and land surveying services if it is anticipated that the total service fee will exceed twenty-five thousand dollars (\$25,000):
  - a. Publish public notice in a newspaper of general circulation in the area where the work is to be done, for at least fourteen (14) days when soliciting proposals for engineering, architectural, landscape architectural, construction management, or land surveying services;

- b. Encourage persons or firms engaged in the services being solicited to submit statements of qualifications and performance data;
  - c. Establish and make available to the public criteria and procedures used for the selection of qualified persons or firms to perform such services;
  - d. Select the persons or firms whom the board determined to be best qualified to provide the required services, ranked in order of preference, pursuant to the district's established criteria and procedures;
  - e. Negotiate with the highest ranked person or firm for a contract or agreement to perform such services at a price determined by the board to be reasonable and fair to the public after considering the estimated value, scope, complexity, and nature of the services; and
  - f. When unable to negotiate a satisfactory contract or agreement, formally terminate negotiations and undertake negotiations, following the procedure described in subsection d, above, with the next highest ranked person or firm, until a contract or agreement is reached.
2. In fulfilling the selection requirements, the board may limit its selection to a list of three (3) persons or firms selected and preapproved for consideration by the board. This preapproved list shall be established in the same manner as selection of an individual contractor. No further publication is then required.
  3. The board may request information concerning a person's or firm's rates, overhead, and multipliers, if any, but such information shall not be used for the purpose of ranking in order of preference as required in subsections a through f, above.
  4. If the anticipated expenditure for these services is less than twenty-five thousand dollars (\$25,000), the board will use the guidelines above, or establish other guidelines for selection based on demonstrated competence and qualifications to perform the type of services required, followed by negotiation of the fee at a price determined by the district to be fair and reasonable after considering the estimated value, the scope, the complexity, and the nature of the services.
  5. When the board has previously awarded a professional services contract to a person or firm for an associated or phased project, the board may, at its discretion, negotiate an extended or new professional services contract with that person or firm. Associated or phased projects are planned construction projects comprised of developmental stages that are interrelated but individually functional.

#### **AGREEMENT FOR JOINT EXERCISE OF PURCHASING POWERS**

If determined appropriate, the board may make purchases of goods or services via contracts held by the State of Idaho or any subdivision thereof, or any agency of the federal government, by entering into a cooperative Agreement for the Joint Exercise of Purchasing Powers with that entity, pursuant to Idaho Code Sections 67-2326 through 67-2333, 33-315 through 33-318, and

33-601. The vote on the decision to enter into a cooperative Agreement for the Joint Exercise of Purchasing Powers will be by resolution of the board and the minutes will reflect the board's reason(s) for doing so. Upon entering into such an Agreement, the board will forego the bidding process.

**PUBLIC CALAMITY RESOLUTION**

If there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, or it is necessary to do emergency work to safeguard life, health, or property, the board may pass a resolution declaring that an emergency exists and the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property. Upon adoption of the resolution, the board may expend any sum required in the emergency without compliance with the bidding requirements pursuant to Idaho Code Section 67-2808(1).



**LEGAL REFERENCE:**

- Idaho Code Sections
- 33-601
- 67-5716
- 67-2326 through 67-2333
- 67-2800, *et seq.*

**ADOPTED: 01/13/09 new as policy**

**AMENDED:**