

| | |
|-------------------------------|-----------------------|
| Dupree School District | NEPN Code: DJC |
| Policy Manual | |

Bidding Requirements

In accordance with state bidding laws, bidding is required when a purchase or contract equal to or exceeding \$25,000 is anticipated, or if the contract is for the construction of a public improvement in excess of \$50,000. However, state bid laws do not apply to the following and the following type contracts are exempt from bidding:

1. any contract for services provided by individuals or firms for consultants, audits, legal services, ambulance services, architectural services and engineering, insurance, real estate services, or auction services.
2. purchases of less than \$25,000.
3. any purchase of equipment involving the expenditure of less than fifty thousand dollars.
4. purchases from the lowest bidder of an item contained on the state price list. The school district may also purchase items from any vendor, if less than or equal to the state price list, but must be the exact same item.
5. purchases of surplus property from another South Dakota political subdivision or the State of South Dakota.
6. equipment repair contracts.
7. communications technologies, computer hardware and software, peripheral equipment, and related connectivity.
8. published books, maps, periodicals and technical pamphlets; laboratory apparatus and appliances.
9. any purchase of supplies or services, other than professional services, from any active contract that has been awarded by any government entity by competitive sealed bids or competitive sealed proposals or from any contract that was competitively solicited and awarded within the previous twelve months. The purchase utilizing another entity's bid must mirror the purchase from a contract that was awarded by the original bidding entity. Contracts may be utilized from any government entity, including those that are out-of-state, provided the contract was awarded by competitive sealed bids or competitive sealed proposals. A bid accepted by another governmental entity may not be utilized if the original bid specifications included a trade-in allowance.
10. amendment of change order to an existing contract for construction, reconstruction or remodeling, provided that
 - (1) the contract contains unit prices for the same type or class of work;
 - (2) the change or extra work is necessitated by circumstances related to soils, utilities, or unknown conditions directly affecting the performance of the work that were not reasonably foreseeable at the time the underlying contract was let and the change or extra work is necessary to the completion of the public improvement; or (
 - 3) the sum of the proposed amendment or change order plus the sum of all other prior unbid amendments or change orders, exclusive of change orders issued under subdivisions (1) and (2) of this section, does not exceed the following:

(a) for contracts not more than five hundred thousand dollars, the greater of twenty-five thousand dollars or fifteen percent of the base contract; (

b) for contracts exceeding five hundred thousand dollars but not more than two million five hundred thousand dollars, the greater of seventy-five thousand dollars or ten percent of the base contract; and (c) for contracts exceeding two million five hundred thousand dollars, the greater of two hundred fifty thousand dollars or five percent of the base contract.

11. transportation of students.

*12. any purchase by a school district of perishable food.

** 13. purchases of material, supplies or equipment made at public sale or auction if the following conditions are met:

- (1) if purchases are made at substantial savings,
- (2) competitive quotations are obtained from at least three suppliers of identical or similar material, supplies,
- (3) purchases are made at less than 80% of the average of the quotations received, and
- (4) a record of the names of the suppliers, quotations received and the procurement procedures used in purchasing shall be documented, indicated in the minutes and retained on file.

14. if, after advertising for bids, no firm bids are received, the school district may negotiate a contract for the purchase of the supplies, services, or public improvement projects at the most advantageous price, if the specifications of the original bid are met.

15. if the school board determines that the supplies or services are of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the supplies or services. The determination shall be recorded in the minutes. The determination that the contractor selected is justifiably the sole source shall be based on either the uniqueness of the supplies or services or the sole availability at the location required. In such cases, the school district shall conduct negotiations, including price, delivery, and quantity to obtain the most advantageous price and shall include the written verification of the sole source in the contract file. This provision does not apply to construction services or construction equipment.

16. the school district may enter into agreements with governmental entities in this or any other state or the United States government, under which any of the parties may agree to participate in, administer, sponsor, or conduct purchasing transactions under a joint agreement or contract for the purchase of supplies or contractual services. The school district may cooperate with purchasing agencies and other interested parties in any other state or the United States government to develop uniform purchasing specifications on a regional or national level to facilitate cooperative interstate purchasing transactions.

17. any contract for the purchase of supplies from the United States or its agencies or any contract issued by the General Services Administration.

18. any contract for asbestos removal in emergency response actions.

19. purchases of real property having a particular use or benefit.
20. guaranteed energy savings contracts.
21. purchase of utility services such as electric power, lights, water or gas.
22. raw materials used in construction or manufacture of products for resale.

* No contract for the transportation of students may exceed five years.

** Although state law exempts school districts from having to bid perishable foods, federal law (7CFR 3016.36 (d)), which must also be complied with when utilizing funds that come from the National School Lunch Programs school food service account, does not contain such an exemption. Federal regulations establish a tiered process whereby purchases of \$150,000 or less require that quotations be obtained from an adequate number of qualified sources. (a.k.a. simplified acquisition threshold). Contracts of greater than \$150,000 would entail a process that is publicly advertised and bids shall be solicited from an adequate number of known suppliers. This may be accomplished by utilizing either competitive sealed bids or competitive sealed proposals. Evidence outlining the steps performed and bids/quotes received should be gathered and retained.

Legal References:

SD Dept. of Legislative Audit
SDCL 1-33B-9
SDCL 13-16-6.1
SDCL 13-20
SDCL 5-18A
SDCL 5-18B
SDCL 5-18C
SDCL 5-18D

Bid Booklet
Contracts not subject to Cha 5-18A
Bidders agreement to state rate and schedule
School district purchases and contracts
Public Agency Procurement
Procurement of Public Improvements
Procurement by Local Government Units
Procurement by State Agencies

Adopted: 8 August 2016
Reviewed: 10 September 2018