

Appendix C: Purchasing Policies and Procedures

1. PURPOSE & PHILOSOPHY

1.1. General Purpose and Philosophy. This policy has been adopted to enable the school to purchase, establish contracts and generally carry on its procurement functions in a manner that deals equitably with all vendors and provides for efficient management and proper expenditure of public monies.

1.2. Applicable Laws and Rules. This policy complies with the Utah State Procurement Code (UPC) Title 63G Chapter 6 and adopts Utah State Procurement Rule R33. In accordance with the UPC, the Board may adopt its own school procurement rules. The adoption of school rules shall be set forth in this policy, otherwise Rule R33 applies. Accordingly, the executive director, business manager, business service provider, shall implement purchasing procedures.

2. AUTHORITY

2.1. Chief Procurement Officer. The executive director and business manager or business service provider is considered the chief procurement official for the school. The director is delegated authority by the AISU Board to carry out the procurement functions of the school and to ensure such functions are in accordance with established policies and written procedures. The director may delegate, in writing, purchasing authority to other school employees as necessary to fulfill the purpose and philosophy of this policy. The director is also given authority to withdraw delegated authority. Refer to purchasing procedures for greater detail than provided in this policy.

2.2. Audits. Subdivisions (i.e., departments, programs, etc.) receiving delegated authority are subject to purchasing audits.

3. SCOPE

3.1. Applicable Purchases and Funding Sources. This policy applies to all purchases made by the school or any of its subdivisions. The policy applies regardless of the source of the money to be expended, including but not restricted to tax money, state and federal grants, donations, all types of fees, revenue generated by programs, schools, departments, etc.

3.2. Applicable Documents and Instruments. This policy shall apply to all purchases made through approved purchase orders, expenditure requests and purchasing/travel cards.

This policy prohibits purchases by the school, its subdivisions and entities through other purchasing instruments, which include revolving credit purchase instruments except as the board deems necessary through the Utah state revolving loan program.

3.3. Applicable Commodities. This policy applies to all purchases of supplies, equipment, materials, construction, real property, and services. Refer to the purchasing procedures for greater detail than provided in this policy.

4. REQUISITION CREATION AND PURCHASE APPROVAL

4.1 Prior Approval Required to Commit Funds. All anticipated transactions that could result in a commitment of school funds shall be approved by the applicable budget manager prior to making any purchasing arrangements.

4.2 Procurement Methods for Low Value Transactions. Purchases of goods and services totaling less than \$1,000 per transaction may be made using purchasing card transactions or \$30,000 for travel card transactions. The school business administrator may also grant higher limits to individuals expected to respond to widespread emergency conditions.

4.2.1 Purchases of goods and services, not executed by purchasing/travel card transactions shall be executed by first submitting a requisition, which after budget manager approval, results in the creation of a purchase order.

4.3 Refunds of Tuition and Reimbursements. Refunds of tuition or other reimbursements to students, parents and employees shall be documented and maintained in accordance with school procedures.

4.4 Exceptions. Exceptions to this policy shall apply to emergency procurements, as identified by the budget manager, provided a requisition is approved subsequent to the purchase. See section 9 for information on emergency procurements. The executive director, business manager, business service provider, is authorized to grant exceptions on card limits for temporary situations when no other reasonable means to conclude the transaction(s) is available.

5. COMPETITIVE SOLICITATIONS

5.1 Small Purchase Definition. School policy defines small purchases as those purchases less than \$10,000; except that:

5.1.1 Small purchases for small capital outlay (SCO) projects, construction or architect-engineer services shall be less than \$50,000;

5.1.2 Small purchases for construction or architect-engineer services pertaining to Career and Technology Education's (CTE) Student Home Building program shall be less than \$20,000; and

5.1.3 Small purchases for services of professionals, health care providers, and consultants shall be less than \$20,000.

5.2 Small Purchase Categories. The State procurement rule further subdivides small purchases into categories dependent upon the amount of the purchase. Competitive pricing shall be obtained for all purchases, except those made from the school's Materials Distribution Center (MDC) and school or state contracts. Purchase requirements may not be divided into smaller units to avoid using the proper purchasing procedure based on the dollar volume nor are purchases to be made prior to obtaining a purchase order number except for purchases made with the school purchasing/travel card according to section 4.1. See section 5.2.1 below for purchase requirements involving contracts/agreements/leases with recurring payments over a fixed period.

5.2.1 Purchases Involving Contracts, Agreements or Leases. For purchases involving recurring payments (monthly, quarterly, annually, etc.) over a fixed period, the method for determining the amount of the purchase and, therefore, the proper purchasing procedures to be used is: recurring payment amount x number of maximum recurring payments = amount of purchase. Calculating the maximum number of recurring payments shall include all potential options to renew the contract/agreement/lease beyond the initial contractual period. Contracts/agreements/leases that:

- [a] contain an automatic renewal clause are prohibited;
- [b] extend beyond the current fiscal year must contain a “no Non-Payment Default” clause; or
- [c] are anticipated to be equal to or greater than \$10,000 must be approved by the business administrator prior to initiating the formal bid process.

5.2.2 Purchases less than \$1,000. For purchases less than \$1,000 entities are encouraged to seek the best possible sources of supply based on factors such as price, prior vendor performance, and delivery; and to utilize the MDC and school or state contracts.

5.2.3 Purchases between \$1,000 and \$5,000. No fewer than two vendors shall be contacted by the requesting entity for verbal price quotes. Quotations shall include a complete description of the product or service to be purchased, the quantity, the vendor name, address, name of the person providing the quote, quote date, unit and extended price, shipping charges if applicable and delivery and payment terms. A brief comment should accompany the documentation explaining the rationale for vendor selection. Documentation shall be retained by the purchasing entity and shall be subject to purchasing department review/approval prior to any commitment to a vendor and be subject to audit by the school’s auditors. Purchasing entities are encouraged to consult with and utilize the services available from the school’s purchasing department.

5.2.4 Purchases between \$5,000 and \$10,000. The same policy applies as in 5.2.3 except that three written quotations are required. Written quotes and award justification must be submitted to the purchasing department for final approval and shall be retained by the purchasing department and be subject to audit. Purchasing entities are encouraged to consult with and utilize the services available from the school’s purchasing department (see section 5.1 for exceptions).

5.3 Purchases over \$10,000. The purchasing department in accordance with adopted bidding policies and procedures shall formally bid purchases over \$10,000. Requesting entities shall provide the purchasing department with complete descriptions, specifications, and suggested sources for the goods/services requested. Those purchases in excess of \$20,000 or \$50,000 for SCO projects, construction and architect/engineer services shall be formally bid with public notice given in accordance with adopted bidding policies and procedures. All of the solicitations and advertisements to be bid shall be issued from the purchasing department after receiving approval from the business administrator except that SCO, construction and architect/engineering services shall be approved by the capital planning committee. The purchasing department further shall coordinate the receipt, opening, review and awarding of all solicitations in accordance with the policy.

5.4 Use of the Materials Distribution Center (MDC) and contracts. Utilization of the MDC and contracts established by the school and the state are strongly encouraged. Refer to the purchasing procedures for greater detail on how to utilize these tools.

5.5 Use of Other Contracts. No other contract established by a political subdivision of the state of Utah; any other state and its political subdivisions; the federal government and its political subdivisions, including GSA contracts, or other third-party cooperative procurement organizations shall be used or used as the basis for not seeking appropriate competition without first obtaining purchasing department approval.

6. OTHER PURCHASES

Authorization Required. The school business administrator shall authorize purchases made through any means other than those described above. Anyone violating this policy shall be subject to disciplinary action.

7. INCREASING PURCHASE ORDER QUANTITY AND PRICE

Budgetary Re-Approval. An approved purchase order quantity or price can be increased only by budgetary re-approval of the document. Such re-approval shall require increasing the document order quantities and price.

8. EXCEPTIONS TO SMALL PURCHASE AND BID PROCEDURES

8.1 Sole or Single Source Procurements. Sole or single source procurements shall be used only if the goods or services are reasonably available from a single supplier. Any request that the procurement be restricted to one potential contractor or vendor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. In cases of reasonable doubt, competition shall be solicited. All sole source requests, at the purchasing department's discretion, are subject to being published for public comment for at least five working days. Requests of \$50,000 or greater must be published. The purchasing department shall make the determination as to whether the procurement shall be made as sole or single source procurement.

8.1.1 Negotiations Required. The procurement officer or designee shall conduct negotiations, as appropriate, as to price, delivery, and terms whenever sole or single source approval has been granted.

8.2 Other Exceptions. The executive director, business manager, business service provider, or designee may utilize alternative procurement methods to purchase certain items when determined to be more practical or advantageous to the school. Alternative procurement methods including informal price quotations and direct negotiations may be used for the following:

8.2.1 Used vehicles including used material handling equipment, heavy equipment, grounds/facilities maintenance equipment, etc.;

8.2.2 Hotel conference facilities and services;

8.2.3 Food/catering services for approved events and training/instructional programs;

8.2.4 Honorariums for speakers and professional trainers/instructors;

8.2.5 School fundraising activities including book fairs; and

8.2.6 Products purchased for re-sell.

8.3 Documentation. Documentation of the alternative procurement method utilized shall be part of the contract file.

9. EMERGENCY PROCUREMENTS

9.1 Emergency Condition Defined. An emergency condition is a situation that creates a threat to public health, welfare, or safety as may arise by reason of floods, epidemics, riots, equipment failures, or other reason as may be determined by the executive director, business manager, business service provider, or designee. The existence of this condition creates an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods.

9.2 Authority to Make Emergency Procurements. Emergency procurements using other than normal bid or price quotation procedures may be made only by the purchasing department, except that, local school/school administrators confronted with an emergency condition occurring after normal business hours, on weekends or school holidays are authorized to make the necessary purchase(s) to meet the emergency. The purchasing department shall be notified promptly or as reasonably practical. Procurement shall be made according to policy as near as possible and still assure that the required supplies, services, or construction items are procured in time to meet the emergency. Given this constraint, such competition as is practicable shall be obtained.

10. SPECIFICATION DEVELOPMENT

10.1 Responsibility. Specifications shall be drafted by the school, department, etc. or the appropriate supervisor and submitted with the requisition. Specifications shall be drafted with the objective of clearly describing the requirements and of encouraging competition by identifying satisfactory alternate descriptions, use of standard specification, and use of brand name, but only as a means of defining the standard of quality, function and performance characteristics desired. Procedures for specification development are determined specifically by Title 63G Chapter 6 Part 3 of the State Procurement Code and School Purchasing procedure. Refer to those sources for greater detail than is provided in this policy.

11. PURCHASING FILES

11.1 Prospective Bidder File. The Purchasing Department shall maintain or cause a third-party service provider to maintain a list of prospective vendors for the various categories of products and services procured by the school. This list shall incorporate those who request to receive bids as well as those added through the purchasing department's effort to solicit all available sources. All schools or departments should refer prospective vendors to the purchasing department for inclusion on the prospective bidder file.

11.2 Solicitation File. A file shall be maintained in the purchasing department of all solicitations currently pending.

11.3 Completed Solicitation File. After the opening of solicitations, they become public information except for information protected under the Governmental Records Access and Management Act (GRAMA) Title 63, Chapter 2 of the Utah Code. A file shall be maintained retaining the solicitations, solicitation comparison sheets, other submittals, and rationale in awarding.

12. PURCHASING AND TRAVEL CARDS

12.1 Definition. As used herein, purchasing/travel cards are purchasing instruments provided by a financial institution designated by the superintendent's office for the purpose of making purchases of predetermined amounts, so that personnel efficiency and financial resources are maximized. Purchasing/travel card use is limited to the type of credit instrument that is fully due and payable each thirty days. This policy prohibits use of revolving credit instruments that allow unpaid balances to be carried forward as revolving credit balances upon which interest is calculated and becomes due and payable in addition to the original purchase amount. Purchasing/travel cards shall have pre-approved spending and product limitations and shall be used only for purchases of less than \$1,000 and \$30,000 respectively or as otherwise authorized in section 4.2 of this policy. Travel cards shall be used for pre-approved travel expenses limited to airfare, hotel, car rental, gas stations, and eating establishments.

12.2 Purpose.

12.2.1 To maximize the use of educational funding while providing necessary controls;

12.2.2 To provide a reasonable and orderly system for use of purchasing/travel cards and credit instruments within the school;

12.2.3 To insure federal, state and school financial policies are observed in relation to use of purchasing/travel cards and credit instruments;

12.2.4 To establish reasonable controls, limits and procedures in regard to purchasing/travel card use; and

12.2.5 To establish disciplinary measures relative to the purchasing/travel card programs.

12.3 Responsibility. The purchasing/travel card programs shall be administered under the direction of the school business administrator. Principals and school office department budget managers are responsible for the oversight and proper functioning of the card programs at their respective locations as defined in this policy and in school procedures. Cardholders must accept and abide by the terms of the user agreement. Use of purchasing/travel cards for personal items or cash advances is prohibited. The cardholder is personally responsible for their intentional unauthorized use of this privilege, excessive, flagrant or unresolved charges are causes for card cancellation and/or disciplinary action up to the including termination. The budget manager is authorized to request suspension or cancellation of card privileges.

12.4 Requesting Cards. Requests for cards shall be submitted electronically via the Encore system and be pre-approved prior to issuance.

13. GIFT CARDS

Documentation. The acquisition of gift cards with school funds and purchasing instruments is prohibited unless inventories and issuance records control the gift cards.

14. DISPOSITION OF EXCESS AND SURPLUS PROPERTY

14.1 Definitions.

14.1.1 Under this section, the term “property” means all tangible assets such as equipment, materials, supplies, furniture, textbooks, etc.

14.1.2 The “property” specifically excludes real property (land) holdings.

14.1.3 The disposition of surplus property is authorized under Utah Code Ann. §63A-9-801 and §53A-12-207. Under this section, the term “excess property” means property no longer in use or needed at a specific location, regardless of condition, is considered excess property when, in all likelihood, it can be used to satisfy an existing need at other school locations. School/department administrators shall make arrangements with the MDC to facilitate the transfer/removal of excess property in accordance with school procedures. Under this section, the term “surplus property” means properties transferred to the MDC when no other internal use of the property can be established.

14.2 All Property is School Property. Existing property and property acquired by schools or departments, excluding leased or loaned, regardless of funding source; whether by transfer, gift, grant or by donation is school property. The school business administrator or designee determines the disposition of all excess and surplus property.

14.3 Authority of Schools/Departments in the Disposition of Property. No school or department may give, donate, sale, barter, trade, advertise or post for sale school property, regardless of condition, to any person, group, organization or school employee except as may be authorized by the school business administrator. All proceeds acquired as a result of the school’s business administrator’s authorization belong to the school.

14.4 Pick Up and Delivery Fees. The MDC is authorized to charge schools/departments a pick-up and delivery fee to cover additional labor, fuel and vehicle operating expenses incurred beyond its control as a result of the requestor's controllable actions or in-actions. Examples of conditions that may warrant a fee are found in the department's procedures.

14.5 Authority of Executive Director, Business Manager, Business Service Provider, in the Disposition of Property. The executive director, business manager, business service provider, is authorized to oversee the use, storage and final disposition of all excess and surplus properties and is authorized to delegate responsibility to others to help make such determinations.

14.6 Inspection of Excess Property Prior to Request for New. School administrators are strongly encouraged to first inspect available excess property and utilize that which would satisfy business needs before submitting a requisition to purchase new.

14.7 Disposal of Surplus Property.

14.7.1 The executive director, business manager, and/or business service provider shall dispose of the surplus in the most cost effective and efficient manner attempting to recoup the maximum value. Whenever possible and practical, attempts to dispose of the surplus might include the following before disposing as trash or refuse:

- [a] Return the property to the original supplier for credit;
- [b] Issue a competitive request for offers;
- [c] Hold a public auction or surplus sale; or
- [d] Sell as recyclable scrap material.

14.7.2 School Employee Preference. School employees shall not be afforded special privileges or preferences in acquiring surplus property not already provided to the general public. Employees may respond to a competitive bid solicitation or participate in a public sale or auction. Items sold to employees shall be at the same rate sold to the general public.

14.7.3 Authority to Establish Pricing. The executive director, business manager, business service provider, or designee shall enable staff to set and establish market pricing and give authority to negotiate a fair and reasonable price with the public. The primary intent of establishing pricing is to recoup the cost of storage, handling, sale/auction expenses and any anticipated disposal costs.

14.8 Use of Third-Party Software Tools. This policy authorizes the executive director, business manager, business service provider, & materials distribution the option to utilize third-party eProcurement or eSurplus software solution tools and services to efficiently and effectively manage the storage, sale and disposition of excess and surplus school property as an alternative to or in addition to a public auction or sale.

14.9 Computers, Cell Phones and Textbooks. The disposition of surplus computers, cell phones and textbooks shall be treated the same as with any other surplus item with certain exceptions. Textbook disposal is subject to Utah Code Ann. §53A-12-207, Utah Administrative Rule R277-

433 and school policy 4I-001. Refer to the purchasing procedures for exceptions and proper handling.

14.10 Referral of Questions. Refer all questions regarding excess or surplus property to the purchasing department.

15. ILLEGAL ACTIVITIES

15.1 Employee Acting in Official Capacity. Any person acting as a procurement officer for the AISU, or who in any official capacity participates in the procurement of supplies, services, construction, real property or insurance for any such political unit is guilty of a felony if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization from any person interested in the sale of such supplies, construction, real property, or insurance.

15.2 Employee Use of Employment Position or Influence. Any person using their employment position or influence at the AISU for the purpose of obtaining goods or services for personal benefit or the personal benefit of others shall be subject to disciplinary action up to and including dismissal and possible criminal charges. Such activities shall include, but are not limited to:

15.2.1 Purchases at discounted rates not available to the general public;

15.2.2 Acceptance of goods and services at no or reduced cost; or

15.2.3 Purchases with the intent of avoiding sales taxes.

15.3 Permissible Employee Exception. It is permissible to obtain goods and services for personal use at discounted rates where suppliers typically offer educational discounts to employees of the school. Such discounts are characterized by being made available to all employees regardless of position or influence. Employees are responsible for the payment of sales tax and purchase arrangements shall not be made through the use of school purchase orders or purchasing/travel cards.

15.4 Vendor Actions. A person who is interested in any way in the sale of any supplies, services, construction, real property, or insurance to the AISU, is guilty of a felony if the person gives or offers to give any emolument, gratuity, contribution, loan, or reward, or any promise thereof to any person acting as a procurement officer, or who in any official capacity participates in the procurement of such supplies, services, construction, real property, or insurance, whether it is given for his own use or for the use or benefit of any person or organization.

15.5 Permissible Vendor Exception. A person who is interested in expressing tangible appreciation to the school and wishes to remain compliant with this section; is encouraged to donate directly to the AISU Foundation which has been specifically established for the purpose of accepting contributions and donations from patrons and friends of education, and as an established 501(c)(3) non-profit organization, qualifies the donor for possible tax advantages. Otherwise, donor commitments to always strive to be responsible and responsive to school needs and to provide quality products and services at fair prices in a reasonable time frame is an adequate and sufficient expression of appreciation.

LEGAL AND CONTRACTUAL REMEDIES

16.1 **Protesting Procurement Actions.** Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the executive director, business manager, or business service provider. A protest with respect to an invitation for bids or a request for proposals shall be submitted in writing prior to the opening of bids or the closing date for proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to the protest prior to bid opening or the closing date of proposals. The protest shall be submitted in writing with five working days after the aggrieved person knows or should have known of the facts giving rise thereto. The executive director, business manager, or business service provider, shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve the protest.

16.2 **Jurisdiction and Appeal.** Unless an action has been initiated previously in school courts for essentially the same cause of action, the AISU Board of Education shall have jurisdiction to review and determine de novo:

16.2.1 Any protest of a solicitation or award of a contract addressed, in writing, to the school's business administrator by an aggrieved actual or prospective bidder or offeror, or a contractor; and

16.2.2 Any appeal by an aggrieved party from a decision rendered or considered to have been rendered pursuant to section 16.1 above.

REFERENCES

Utah Code Annotated Title 63G, Chapter 6 Utah Procurement Code - State law establishes procurement policy for all agencies of Utah State government and the rules, regulations promulgated by the AISU Board of Education are as directed by the statute and are complimentary to the provisions therein. The complete text of the Utah Code, Title 63, Chapter 56 is incorporated by reference into this policy. These documents are available at the purchasing department.

Utah Code Ann §§53A-20-101 (1)(7), 101.5, 103 and 105 - An officer or employee of a school may not make a purchase or encumber indebtedness on behalf of the school without the approval of the Board. A licensed architect must prepare plans for construction or alteration of any school if the total estimated accumulated costs exceed \$80,000. It shall be the policy to publicly announce all requirements for architect/engineering services and to negotiate contracts on the basis of demonstrated competence, qualification, and reasonable price.

Utah Administrative Code R23-1-20 - Procurement for Construction - Small purchases **\$50,000.00 or less.**

Utah Administrative Code R33-5-530 - Construction & Architect-Engineer Selection - Small purchases \$50,000.00 or less. AISU complies with the principle that minority and women business enterprises must be given a fair opportunity to compete for all procurement administered by AISU.