

The board may purchase services or personal property as necessary for the operation of the district. All contracts will be bid and entered into in accordance with all applicable state and federal laws relating to public purchasing, as well as the district's policies relating to purchasing (Policy 850) and supplemental bidding procedures (Policy 850P1). Where the purchase of services or personal property is made with federal funds, the district will also follow the guidelines set forth in the District's Policies and Procedures Manual for the Administration of Federal Education Programs ("Federal Programs Manual").

Before entering into a contract that entails the expenditure of fifty thousand dollars (\$50,000) or more, the board or its designee will have the contract reviewed by legal counsel to ensure that the district's interests are adequately protected.

Except as may be otherwise set forth herein, this policy does not apply to service or personal property contracts that are exempt from competitive bidding requirements as provided in Idaho Code §67-2803 and policy 850.

#### **BUS TRANSPORTATION SERVICES**

The district will follow the requirements of Idaho Code §33-1510 for all bus transportation service contracts.

#### **SERVICES AND PERSONAL PROPERTY VALUED BETWEEN \$75,000 AND \$150,000**

When the board contemplates purchasing services or personal property valued in excess of seventy-five thousand dollars (\$75,000) but not to exceed one hundred fifty thousand dollars (\$150,000), the following procedures apply.

##### Bid Solicitation

The written solicitation for bids will be sent to no fewer than three (3) vendors by written means, either by electronic or physical delivery. The solicitation will describe the services or personal property to be purchased or leased in sufficient detail to allow a vendor dealing in such goods 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 (or other authorized official) must receive a bid proposal, and a reasonable time to respond, provided that except in the event of an emergency, such time will not be less than three (3) business days.

##### Objections

The board clerk (or other authorized official) 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. The board or designee will respond to any such objection in writing and communicate such response to all prospective bidders, adjusting bidding timeframes if necessary. Any objection not submitted within the time required by this section will be deemed a waiver of any rights to raise such objection thereafter.

#### Contract Award

Upon receipt of the written bids, by either physical or electronic delivery, the clerk will compile and submit the written bids to the board or designee which will approve the responsive bid proposing the lowest procurement 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 procurement, the board may acquire the property 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 procure at least three (3) bids and such documentation will be maintained for at least six (6) months after any such procurement is made. If two (2) or more bids are the same and both constitute the lowest responsive bids, the board has discretion to accept either bid.

#### **SERVICES OR PERSONAL PROPERTY VALUED IN EXCESS OF \$150,000**

When the board contemplates an expenditure to purchase services or personal property, other than services or personal property excluded pursuant to Idaho Code §67-2803, valued in excess of one hundred fifty thousand dollars (\$150,000), an open competitive sealed bid process will be utilized as set forth below. The procurement will be made from the qualified bidder submitting the lowest bid price complying with bidding procedures and meeting the specifications for the goods sought to be procured.

#### Bid Solicitation

The written request for bids, and notices thereof, will succinctly describe the services or personal property to be procured and set a date, time, and place for the opening of bids. Two (2) notices soliciting bids must be published in the official newspaper of 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 (or other authorized official) must receive any written objections to specifications or bid procedures at least three (3) business days before the date and time the bids are scheduled to be opened. The board or designee will respond to any such objection in writing

and communicate such response to all prospective bidders, adjusting bidding timeframes if necessary. Any objection not submitted within the time required by this section will be deemed a waiver of any rights to raise such objection thereafter.

### 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, unless the bid is submitted in a form which substantially complies with the form provided by the district. The board may require that the bid security be in one of the following forms:

1. Cash;
2. A cashier's check payable to the district;
3. A certified check payable to the district; or
4. 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 for award or, if a designee is authorized, for approval of the award. 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 or its designee may reject all bids and re-bid or after finding it to be a fact, the board may pass a resolution declaring that the subject goods can be procured more economically on the open market. If two (2) or more bids are the same and both constitute the lowest responsive bids, the board or its designee 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) therefore. After completion of the review process, the board may proceed as it deems to be in the public interest. Any objection or appeal not submitted within the time required by this section will be deemed a waiver of any rights to raise such objection or appeal thereafter.

### **REQUESTS FOR PROPOSALS**

The board may utilize a request for proposal (RFP) process as set forth in Idaho Code §67-2806A as an alternative to the competitive bidding process. The RFP process may be used when the following conditions exist:

- Fixed specifications might preclude the discovery of a cost-effective solution;
- A specific problem is amenable to several solutions; or
- Price is not the sole determining factor for selection.

Factors that may be considered in the evaluation of vendors in a RFP process include, but are not limited to those set forth in Idaho Code §67-2806A.

At a minimum, an RFP will state the instructions of the process, the scope of work for the services or personal property contemplated, the selection criteria, contract terms, and the scoring methodology applying relative weights to factors considered. Notification, solicitation and consideration of contests concerning the award of procurement pursuant to an RFP shall be in accordance with the minimum requirements established in Idaho Code §67-2806, subject to the selection criteria established at the outset of each such procurement. Records compiled in the scoring process will be made available for public inspection when a procurement recommendation is made to the board.

### **COOPERATIVE AND JOINT PURCHASING**

If determined appropriate, the board may make purchases of services or personal property through cooperative, interagency, or joint purchasing agreements as allowed by Idaho Code §§

33-315 (cooperative contracts to employ specialized personnel and/or purchase materials); 67-2326 through 67-2333 (joint exercise of powers); 67-2332 (interagency contracts); and 67-2807 (cooperative purchasing). The board will at all times adhere to the requirements set forth in state law.

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

For professional service contracts anticipated to be more than \$50,000, 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 utilizing the process set forth in Idaho Code §67-2320. For professional services contracts where the anticipated service fee is less than \$50,000, the board may establish its own guidelines for selection of public works construction and design professionals based on demonstrated competence and qualifications to perform the type of services required, followed by negotiation of the fee at a set price determined by the board to be fair and reasonable after considering the estimated value, scope, complexity, schedule and nature of services required. Alternatively, for contracts where the estimated professional service fee is less than \$50,000, the board may elect to use the process set forth in Idaho Code §67-2320.

The board will not enter into a contract with any person or firm for construction management services as a construction manager representative or construction manager/general contractor if such person or firm is required to be licensed as required by Idaho law, unless: (a) such person holds a valid license or such firm holds a valid certificate issued pursuant to Idaho Code §§54-4501 *et seq.*; (b) the selection of the construction manager representative or construction manager/general contractor is made pursuant to Idaho Code §67-2320; and (c) all terms of the contract, including but not limited to terms for management fees, incentive compensation and disposition of any contingency fund, if applicable, are agreed upon in writing.

The board may award a contract for construction management services on either a construction manager representative or construction manager/general contractor basis under the guidelines set forth in Idaho law. No proposal, bid, or qualifications will be accepted or denied and no award of a contract for construction management services will be made based on environmental, social and governance standards. For purposes of this policy, “environmental, social and governance standards” means procurement standards that screen or score bids, in whole or in part, on subjective ethical or sustainability criteria unrelated to the specifications in a solicitation or the qualifications of a bidder.

### **COMPLIANCE WITH ANTI-BOYCOTT AGAINST ISRAEL ACT**

For all contracts with a total potential value of \$100,000 or more executed on or after July 1, 2021, the board acknowledges that it will not enter into a contract with a company to acquire or dispose of services unless the contract includes a written certification that the company is not currently engaged in, and will not for the duration of the contract engage in, a boycott of goods

or services from Israel or territories under its control. This requirement does not apply to companies with fewer than ten (10) employees.

For purposes of this policy, the terms “boycott Israel” or “boycott of the state of Israel,” and “company” shall have the meanings set forth in Idaho Code §67-2346(3).

Upon discovering that a contract fails to comply with this policy, the board will have a period of ninety (90) days to obtain the necessary certification. After such time, any contract continuing to violate the provisions of the Anti-Boycott Against Israel Act shall be void as against public policy.

**COMPLIANCE WITH PROHIBITION ON CONTRACTS WITH COMPANIES OWNED OR OPERATED BY THE GOVERNMENT OF CHINA**

For contracts entered into after July 1, 2023, the board acknowledges that it will not enter into a contract to acquire or dispose of services unless the contract includes a written certification that the company is not currently owned or operated by the government of China and will not for the duration of the contract be owned or operated by the government of China.

For purposes of this policy, “government of China” and “company” shall have the meanings set forth in Idaho Code §67-2347(2).

Upon discovering that a contract fails to comply with this policy, the board will have a period of ninety (90) days to obtain the necessary certification. After such time, any contract continuing to violate Idaho Code §67-2347 shall be void as against public policy. Any contract executed prior to July 1, 2023 that violates the law will not be renewed.



**LEGAL REFERENCE:**

Idaho Code Sections

33-316 – Cooperative Contract to Employ Specialized Personnel and/or Purchase Materials

33-601 – Real and Personal Property – Acquisition, Use or Disposal of Same

67-2320 – Professional Service Contracts with Design Professionals, Construction Managers, and Professional Land Surveyors

67-2326 through 67-2333 – Joint Exercise of Powers

67-2346 – Anti-Boycott Against Israel Act

67-2347 – Prohibition of Environmental, Social, and Governance Standards in Public Contracts

67-2359 – Contract with a Company Owned or Operated by the Government of China

67-2800 *et seq.* – Purchasing by Political Subdivisions

54-1901 *et seq.* – Public Works Contractors

54-4511 – Award of Contracts – Dual Capacity

Federal Regulations

2 CFR Part 200 (EDGAR)

**ADOPTED:** June 20, 2023

**AMENDED:**