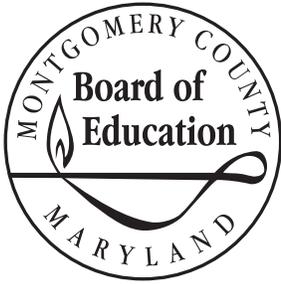


MONTGOMERY COUNTY PUBLIC SCHOOLS
.....
PROCUREMENT MANUAL

**Guidance for the procurement
of goods and services for
Montgomery County Public Schools**



**Procurement Unit
45 West Gude Drive, Suite 3100
Rockville, Maryland 20850
301-279-3555**



VISION

We inspire learning by providing the greatest public education to each and every student.

MISSION

Every student will have the academic, creative problem solving, and social emotional skills to be successful in college and career.

CORE PURPOSE

Prepare all students to thrive in their future.

CORE VALUES

*Learning
Relationships
Respect
Excellence
Equity*

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School Support and Improvement*

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Rockville, Maryland 20850
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MISSION

THE Procurement Unit supports the Department of Materials Management (DMM), and the Montgomery County Public Schools (MCPS) mission, vision, and strategic goals by providing vendor contracts for schools and offices to purchase high-quality goods and services at reasonable costs.

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Introduction

The purpose of this manual is to provide guidance for the procurement of goods and services for Montgomery County Public Schools (MCPS). All purchasing activities are governed by the Montgomery County Board of Education (Board) and the superintendent of schools, as defined in the Annotated Code of Maryland, Education Section. All goods and services purchased are subject to the procedures outlined in this manual.

MCPS is dedicated to ensuring that—

- high-quality goods and services are purchased in a timely manner, at a reasonable cost;
- all purchasing actions are enacted in a fair and impartial manner, with no appearance of impropriety;
- all qualified vendors have access to MCPS business;
- offerors are not excluded arbitrarily or capriciously;
- specifications reflect the procurement needs of the purchasing body rather than a particular vendor; and
- the maximum feasible degree of competition is achieved.

The Office of the Chief Operating Officer (OCOO) exercises overall responsibility for procurement processes. This responsibility is managed through the Department of Materials Management (DMM) for all procurement of goods and services other than construction-related items that are funded through the capital budget. Under the guidance of the director of DMM, the Procurement Unit obtains, without favor or prejudice, the proper amount of suitable product at the best possible price and has the product available when needed.

The policies and procedures outlined in this manual do not apply directly to the Division of Construction processes related to capital construction and related architectural and engineering services. Purchases of these items are conducted under the policies, rules, and regulations instituted by the Board for the Department of Facilities Management, in accordance with mandatory sections of the Annotated Code of Maryland. Information related to the Department of Facilities Management can be found at: www.montgomeryschoolsmd.org/departments/facilities.

1 SECTION

Procurement Governance, Authority and Ethics

The Annotated Code of Maryland, Education Section, provides governance for the procurement of goods and services for public schools. Authority Section 4-205 defines the duties of the superintendent of schools. Authority Section 5-112 defines the procurement process.

Section 5-112, Bids, lists the following as exceptions to the procurement process:

- Contracts for the purchase of books and other materials of instruction, as defined in the Maryland State Department of Education Financial Reporting Manual
- Emergency repairs
- Participation in contracts for goods or commodities that are awarded by other public agencies or by intergovernmental purchasing organizations, if the lead agency for the contract follows public bidding procedures

Authority

The superintendent of schools delegates authority to the director of DMM to enter into contracts for the procurement of goods and services. The Board awards all contracts that exceed the established dollar thresholds. The director of DMM is authorized to delegate purchasing authority for the purchase of specified goods and/or services to procurement buyers. Any purchases ordered or contracts made that are contrary to the established provisions and authorities shall be voided with no obligation to MCPS (MCPS Regulation DJA-RA, *Procurement of Equipment, Supplies, and Services*).

Ethics

The Montgomery County Board of Education Policy BBB, *Ethics*, applies to any person employed by the Board. The policy serves to promote the highest level of ethical conduct on the part of all persons associated with MCPS, to ensure the highest public confidence in the impartiality and independent judgment of the Board members and MCPS employees, and to provide guidance for MCPS personnel concerning ethics-related matters. In addition, the Procurement Unit staff will adhere to the ethics policy from the National Institute of Governmental Purchasing (NIGP).

MCPS is committed to a fair and open competitive environment and all vendors and contractors are invited to participate in our procurement activity.

SECTION 2

Procurement Principles

Public purchasing embraces a fundamental obligation to the general public to ensure that procurement is accomplished in accordance with the intent of the laws enacted by the appropriate legislative body. Therefore, all MCPS procurement procedures are conducted in a fair and impartial manner, with avoidance or appearance of impropriety.

- All qualified vendors have access to public business.
- No offeror is excluded arbitrarily or capriciously.
- Competition is sought to the maximum degree feasible.
- Specifications are designed to reflect the procurement needs of the purchasing body rather than to favor a particular vendor.

Minority, Female, and/or Disabled-owned Vendors

On average, MCPS awards over \$200 million a year for goods and services. As one of the largest organizations within Montgomery County and the largest school system in Maryland, MCPS is committed to doing business with all vendors. Small and minority-owned businesses play a critical role in Montgomery County's economic stature and are needed for their innovative solutions, quality, and cost saving ideas. The Board has adopted a position encouraging the award of up to 10 percent of the total dollar value of all contracts to minority, female, and/or disabled-owned firms. The Board reviews quarterly reports on procurement actions during regularly scheduled public meetings.

Vendor Outreach

MCPS supports a well-rounded business base assisting all vendors through training and outreach activities. The Procurement Unit offers monthly training sessions for vendors that are interested in being business partners. Additionally, unit staff participates in county and state outreach activities specifically targeted to small businesses and businesses owned and operated by minorities, females, and disabled individuals.

3

SECTION

Procurement Objectives

The Procurement Unit is responsible for obtaining materials, supplies, equipment, and services essential to the operation of the school system, while considering the best interests of MCPS in all transactions and following established policies. The fundamental objectives are as follows:

- Conduct all procurement transactions in accordance with Board policy and all applicable state and federal laws. Avoid all unethical practices and the appearances of the same (review Board Policy BBB, *Ethics*).
- Develop and maintain reliable sources of supply for use by MCPS staff.
- Secure materials, supplies, equipment, and services of the quality and quantity specified for delivery at the time and location needed.
- Purchase without prejudice, seeking to obtain the maximum value for each dollar while maintaining MCPS high-quality standards.
- Promote and maintain good vendor relations.
- Keep informed of current developments in the field of procurement, prices, market conditions, and new products. Submit information on recommendations regarding new or improved products to the appropriate department or division.
- Promote outreach efforts and actively recruit minority vendors.
- Promote and maintain good community, public, and interdepartmental relations and cooperate with all organizations and individuals engaged in activities designed to enhance the development of public procurement.
- Promote “green” purchasing to ensure that MCPS meets Board expectations in sustainable and environmentally preferred products (EPP).
- Recruit, develop, support, and train qualified procurement staff members.

4 SECTION

Procurement Responsibility

The Procurement Unit centrally purchases all equipment, supplies, and services and is responsible for the following:

- Determining the method of obtaining a competitive bid.
- Obtaining competitive price quotations and formal bids for items not currently on bid. This service is available to schools not only for budget-related items but also for expenditures from independent activity funds (IAFs) (MCPS Regulation DJA-RB, *Purchases of Materials and Equipment Using Nonappropriated Funds and Acceptance of Donated Items*).
- Ensuring that all price quotations are solicited without favor or prejudice; subscribing to and working for honesty and truth in buying and denouncing all forms of conflict of interest (MCPS Regulation GCA-RA, *Employee Conflict of Interest*; MCPS Regulation GCB-RA, *Reporting and Handling Fraudulent Actions by MCPS Employees, Agents, or Contractors*).
- Advertising on eMaryland Marketplace all solicitations estimated at \$25,000 and above. (Board Policy DJA, *MCPS Procurement Practices and Bid Awards*).
- Administering a minority/female/disabled (MFD) vendor participation plan, in accordance with Board policy.
- Developing bid specifications for all equipment and supplies in cooperation with the program official who requires the services.
- Providing bid instructions to vendors.
- Understanding the needs of MCPS; being receptive to competent counsel from colleagues and being guided by such counsel.
- Promoting goodwill between MCPS and its suppliers. Ensuring that all vendors are aware of existing laws pertaining to delivering goods and services to MCPS, such as contractors' and subcontractors' responsibility regarding registered sex offenders and criminal records and background check, including fingerprinting. Refer to Appendix A or the Procurement Unit website for information. <http://www.montgomeryschoolsmd.org/departments/procurement/contractors.aspx>
- Summarizing all formal bids received by conducting evaluations and preparing recommendations for awarding contracts.
- Notifying the office for which the bids are secured of every instance when an item(s) offered fails to meet specifications. In those cases where a department, division, or supervisor is evaluating a bid for specification compliance, the department or division director or supervisor reports the finding of all specification deviations to the team leader of the Procurement Unit.
- Preparing and presenting to the superintendent of schools the recommendation of a bid award or rejection for submission to the Board. If the team leader and the administrator/supervisor responsible for evaluating a bid for specification compliance cannot reach consensus, the matter is referred to the chief operating officer for resolution.
- Having a representative of DMM in attendance at all Board meetings with contract recommendations on the agenda. If necessary, a representative of the office with a contract recommendation will be in attendance and prepared to provide information to the Board.
- Ensuring that procurements requiring Board approval are not issued prior to such approval.
- Corresponding with vendors regarding contractual issues. End users shall collaborate with the Procurement Unit regarding correspondences to vendors when addressing contractual issues.
- Ensuring that MCPS staff adheres to current contracts when purchasing materials, equipment, supplies, or services.

5 SECTION Responsible Persons

In addition to the Board and the superintendent of schools, the following are responsible for specific functions:

Program Official

The deputy superintendent of school support and improvement, the chief academic officer, the chief operating officer, an associate superintendent, a department director, or other MCPS official designated by the superintendent of schools authorized to request the Procurement Unit team leader to issue solicitations of contractual services (MCPS Regulation DJA-RA, *Procurement of Equipment, Supplies, and Contractual Services*).

Team Leader

The person named in a procurement solicitation and contract as being the program's official representative to the vendor concerning the technical requirements of the solicitation and contract. The project manager reviews vendor performance and recommends to the account manager payment of vendor invoices. The project manager also will document vendor performance in writing for the procurement staff.

Procurement Unit Staff

The buyers in the Procurement Unit, under the direction of the team leader and director of the Department of Materials Management, are responsible for all contract administration involving the procurement of equipment, supplies, and contractual services, including the following:

- Issuing procurement solicitations and contract documents
- Obtaining approval for award of a contract
- Issuing notification of contract awards
- Authorizing payments
- Enforcing contractual terms and conditions
- Obtaining legal review of contracts as appropriate

6 SECTION

Thresholds for Determining Method of Procurement

The following thresholds determine the method used to obtain competitive prices for equipment, supplies, and services.

Estimated Cost	Method Used to Obtain Competitive Prices
\$0–\$7,499	Buyer Review
\$7,500–\$24,999	Requisition for Quote (at least three)
\$25,000 and above	Invitation for Bid (IFB), (RFQ), Request for Proposal (RFP), and other (pages 14–15)

Regardless of the source of funds by which the contract is to be paid, MCPS purchasing procedures apply to the procurement of goods and services by all departments and schools with both appropriated and independent activity funds (IAF). IAF expenditures of \$7,500 and more must be approved in writing by the chief operating officer. These procedures do not apply to purchases made directly by Parent Teacher Associations (PTAs), booster clubs, foundations, or any other organizations.

These thresholds do not apply to the purchase of books and other instructional materials.

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SECTION

Procurement Methods

Methods of Procurement

Competitive procurement when conducted fairly and honestly does not guarantee that a preferred brand or vendor will be selected. It does guarantee that the most favorable price will be obtained for the quality level that is specified. Competition is sought to the maximum degree feasible.

Request for Quote (RFQ)

A RFQ is used for purchases of less than \$25,000. If the purchase is less than \$7,500, it is recommended that the requester obtains three quotes, which may be reviewed by the buyer, and award to the business offering the lowest quotation that meets specifications. For purchases between \$7,500 and \$24,999, the Procurement Unit will work with the requesting office to send a RFQ, which includes specifications, to three minority and three nonminority businesses. Suppliers will be asked to respond by a predetermined date. The award will be made to the business offering the lowest quotation that meets specifications.

Invitation for Bid (IFB)

An IFB is a sealed bid process for the procurement of goods or services that includes formal advertisement, specifications and conditions for the particular purchase, and a predetermined date and time for the bid opening. This solicitation process is used for the purchase of goods that are \$25,000 or above. The approximate time needed to process an IFB is three months. This allows adequate time for the solicitation of bids, evaluation of responses, contract award, and delivery within the specified timeframe. Certain requirements of the formal bid process cannot be expedited; therefore, planning the bid schedule with the Procurement Unit is essential to meeting the desired delivery.

The Procurement Unit assists the requesting office in the creation of an IFB solicitation. The solicitation shall

include product and/or technical specifications and terms and conditions of the contract. Specifications available electronically expedite the process. Review of the solicitation by the requestor prior to issuance may be required.

IFBs will be advertised in a medium accessible to the general public at least 14 calendar days prior to the opening date. It is preferred to advertise 21 days or longer. IFBs will be posted on the Procurement Unit web page and on eMaryland Marketplace. The Procurement Unit also will send the IFB directly to suppliers who have responded in the past two cycles.

- **Submission of Bids**

Bids must be delivered to Montgomery County Public Schools, Procurement Unit, 45 West Gude Drive, Suite 3100, Rockville, Maryland 20850, and be received and stamped prior to the bid opening. Bids may be delivered in person, but delivery to the mailroom or lobby does not validate the time of receipt. The respondent shall assume full responsibility for timely delivery of the bid, whether by the U.S. Postal Service or by any other carrier. Bids received after the designated time for the receipt of solicitations will be returned unopened. The envelope shall be marked clearly with the bid number, bid opening date and time, and vendor's name and address.

The Procurement Unit, upon receipt of the bid materials, will date, time stamp, keep unopened, and secure all submissions. Prior to the bid opening, information concerning the identity and number of bids received may be made available to employees who have a proper need for such information, as determined by the buyer. When bid samples are submitted, they shall be handled with sufficient care to prevent disclosure of characteristics before the bid opening.

A sealed envelope will be opened if the bidder fails to clearly label it as a bid. The person who opened the bid immediately will write on the envelope his or her name and position title, the IFB number, the current date, and an explanation for the opening. Bids opened for identification purposes will be resealed in the envelope, and no information contained therein will be disclosed prior to the public bid opening. However, MCPS will not be responsible for any information disclosed in such circumstances.

- **Amendments to IFB**

Amendments to IFBs shall be in the form of an errata or addenda. Bidders must acknowledge receipt of an errata or addenda by signing and including them in the bid response. If a bidder obtains the solicitation through sources other than MCPS, the bidder is responsible for obtaining all errata and addenda.

The Procurement Unit team leader may extend the time and date for bid opening to enable bidders adequate time to consider the amendments.

- **Opening of Bids**

Vendors are encouraged to attend the bid opening. Responses to the IFB received in the Procurement Unit are opened publicly at the date and time specified. Prices, terms, and conditions will be made public. Copies of the bid responses are available for examination.

- **Bid Bonds**

Bidders may be required to submit a bid bond in an amount to be determined by the Procurement Unit and specified in the IFB to ensure the satisfactory completion of the work for which a contract or purchase order is awarded.

- **Evaluation**

Bids are tabulated and the information is provided to the requesting unit for review and recommendation. When appropriate, the requesting unit and buyer will evaluate the bid together. The Procurement Unit team leader will review the recommendations prior to Board approval.

The IFB evaluation process includes a review to determine if the proposed goods meet the product and/or technical specifications. A performance specification may be included and describes the function and use of the product. If a brand name is used, the words “or equal” must be added, unless the brand is the only brand that is compatible for the

purpose intended, required to meet health needs of the students, or if replacement parts or maintenance are a consideration.

The name of a certain brand, make, or manufacturer does not restrict bidders to that specific brand, make, or manufacturer. The designation conveys the general style, type, character, and quality of the articles desired. MCPS shall accept any article it determines to be equal to that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended.

The term “or equal” does not mean that the product will be evaluated as to whether it is exactly equal to the product named in the specification. “Or equal” means that an alternative product will be evaluated to determine if it produces the same result as the brand specified. The information provided on the alternative product must include any mandatory physical characteristics (e.g., size, horsepower, weight) to be accepted as “equal.”

Any technical or design specification shall include either a blueprint, drawing, or engineering plan detailing the characteristics of the item being purchased.

There are circumstances when it is advantageous for MCPS to test and approve goods before bids are solicited. If the approved product(s) list is included in the IFB specification, then the IFB language will include a provision for testing and expansion of the list for subsequent purchases.

The requesting unit should notify the Procurement Unit prior to contacting vendors to receive assistance and/or suggestions on procurement requirements. When the requesting unit does receive advice or assistance from a vendor in preparing specifications for a purchase, the name of the vendor providing assistance must be submitted with the purchase request. Vendor assistance in evaluating available products and preparing specifications shall not imply or infer that such vendor will receive a purchase order or contract award.

- **Bid Awards**

The Board will award the contract (Board Policy DJA, *MCPS Procurement Practices and Bid Awards*) to the lowest responsible bidder who conforms to the specifications and contract terms and conditions as outlined in the IFB.

- **Tie Bids**

In the event of tie bids, if all other factors are considered equal, the bid is awarded in the following order of preference:

1. The vendor is based in Montgomery County.
2. The vendor is a minority vendor.
3. The vendor is based outside Montgomery County but within the state of Maryland.

If a tie bid still exists after the above preferences have been considered, a decision concerning the award will be made by utilizing the standard method as described by NIGP.

- **Interest in More than One Bid**

More than one bid or proposal received in response to a single solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected.

Reasonable grounds for believing that a bidder or offeror is interested in more than one bid or proposal for a solicitation, both as a bidder or offeror and as a subcontractor for another bidder or offeror, will result in rejection of all bids or proposals in which the bidder or offeror is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two or more bidders or offerors submitting a bid or proposal for the work.

Bidders or offerors rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.

- **Rejection of Bids**

The Board reserves the right to reject any and all bids (in whole or in part); to make partial awards; to waive any irregularities in any quotation; to increase or decrease quantities if quantities are listed in the bid; and to reject any bid that shows any omissions, alterations of form and additions, conditions, or alternate proposals not called for and/or that is not in the best interest of the Board.

- **Withdrawal of Bids**

Bids may be withdrawn by written notice if given prior to the time and date specified for the opening of the bid. Telephone calls for these purposes are not acceptable.

- **Changing of Bid Prices**

Bidders are prohibited from changing their bid prices once their bid has been opened, even if the price submitted was in error. If, during review of the bids, an obvious pricing error is discovered, the bid will not be considered.

Request for Proposal (RFP)

An RFP is a formal solicitation typically used to procure services when quality and price are balanced to meet the needs of the user. The approximate time needed to process a formal solicitation is three months. Final costs and scope of work are subject to negotiation after the proposals are received and before the contract is awarded, unless otherwise stated in the RFP. Therefore, proposals are not opened publicly. The final contract will be prepared by the Procurement Unit and the user and will be reviewed by legal counsel.

An RFP is used under the following circumstances:

- Procurement of contracted services or of a system that consists of services including goods
- Evaluation criteria that considers both technical specifications and cost
- Anticipation of several sources of supply and competition
- Procurement is valued at \$25,000 or above

An RFP includes—

- a transmittal letter;
- the date, time, and place for submission of proposal;
- the date and location of the pre-proposal conference, if scheduled;
- background information;
- the scope of services and statement of work;
- criteria and method of award; and
- a business section.

An RFP may contain a minimum score that establishes the threshold that an offeror must achieve.

- **Evaluation Committee**

The director of the requesting unit, or designee, will chair the evaluation committee. The remaining members shall consist of the Procurement Unit team leader, or designee, and others as mutually agreed upon by the requesting unit. The Procurement Unit representative shall be an ex officio, nonvoting

member. The Procurement Unit team leader may excuse the participation of any designee from the evaluation committee. All committee members should review Board Policy BBB, *Ethics*.

The committee shall be responsible for the following tasks:

- Preparing the technical specifications and criteria for evaluation.
- Reviewing the original RFP.
- Reviewing the responses according to the criteria established in the solicitation.
- Selecting the vendor finalists.
- Participating in oral presentations by the vendor finalists.
- Investigating the performance of the offeror in contracts listed as references (or other contracts not listed as references but who MCPS staff may know or be aware of).
- Conducting cost and price analyses of the data submitted by vendor finalists (including life-cycle costs).
- Ranking the vendor finalists.
- Participating in the negotiations with one or more of the top-ranked vendor finalists, if appropriate.
- Evaluating the best and final offer(s) of the vendor finalist(s).
- Making a positive contribution to the committee’s mission of producing a professionally sound recommendation for award.
- Giving the chairperson all the committee members’ files, records, correspondence, completed evaluation forms, results of reference checks and site tours, and minutes of meetings, for inclusion in the master solicitation file, in the event that the committee’s decision is questioned or challenged.
- Conducting the evaluation and selection process, in strict accordance with the procurement rules of MCPS, ensuring that the final recommendation is without bias and legally defensible.
- Providing information and assistance to the procurement and legal departments, if protests are filed by unsuccessful offerors.
- Maintaining the confidentiality of the identities

of the offerors and the security of the contents of the offerors’ responses until the award is made.

- Attending all committee meetings.

Each voting committee member is expected to attend all evaluation meetings and oral presentations. Absenteeism of a member may require the voiding of all scores previously submitted by that member and recalculation of committee scores. The committee should remain intact throughout the evaluation process to avoid unbalanced scoring. Voting committee members who expect to be absent for at least one meeting should withdraw.

- **Review**

An RFP consists of two sections. Part A is the technical section which includes the scope of work and vendor requirements. Part B is the business section, which includes the cost.

The committee is given copies of the technical section. Once the technical section is reviewed and scored, then the business section is opened and given to the committee for evaluation.

A separate committee may be convened to evaluate the business (cost) section. Once both sections are evaluated, a decision can be made, weighing the cost and best qualified to determine the final recommendation.

The only award criteria that can be used in the evaluation process are those included in the original RFP. These criteria must be applied to the responses without change, deletion, or expansion. The use of any evaluation criteria other than those listed in the solicitation is prohibited.

Each committee member must be familiar with the original RFP in order to provide an effective evaluation. In addition to the task description for the project, the RFP includes the qualifications required of the offerors and identifies the criteria to be used in evaluating the offerors’ responses. Committee members must be familiar with the requirements of the RFP to determine whether it mandates or only suggests that offerors provide certain services or information. The words “should” and “may” in the proposal simply encourage the offeror to do something. They are not to be considered mandatory requirements. Only “shall,” “must,” and other command words require action by the offeror.

- **Evaluation**

Evaluation criteria may include—

- general experience and technical competence;
- past performance record on other county projects;
- related experience on similar projects;
- compatibility of size of firm with size of proposed project;
- knowledge of local conditions, codes, and ordinances (where such knowledge is essential to the proper performance of the contract);
- current total workload of the vendor and the capacity to accomplish the proposed work in the required time;
- familiarity with project or project site;
- special qualifications, experience, design approach;
- originality and design quality of previous work;
- adequacy of office facilities where services will be rendered; and/or
- involvement of consultants, management and participation of key officials in the project.

The RFP should identify all evaluation factors, including cost and performance criteria. The responses shall be appropriately evaluated, in accordance with the evaluation factors identified in the RFP.

- **Independent Review by Committee Members**

The evaluation form is prepared by the committee chairperson, with the assistance of the Procurement Unit, and distributed to all members along with copies of the responses received. Each member independently reviews and scores the offerors' responses (before meeting or discussing the responses with any other committee members) and records his/her scores in the "Independent Review" column of the form. Committee members should make notes of their observations directly on the evaluation form so that they can defend any challenge to their scoring during the full committee review.

- **Full Committee Review**

The full committee meets and discusses the scores assigned by each member during the independent review. Members may gain insight into the qualifications of each offeror after hearing other committee members' reasoning behind their scores. It is not unusual for a committee member's independent scoring of an offeror to change because of this added insight. If a committee member feels that a score for one or more entries requires adjustment, then the adjustment is made on the evaluation sheet, along with a notation for the change.

The committee chairperson forwards the original evaluation forms to the Procurement Unit with the committee's final award recommendation within 18 calendar days prior to Board approval.

- **Identification of Offerors**

The committee identifies the offerors that meet the requirements of the RFP and those that do not qualify for further consideration by totaling the evaluation forms. Offerors then are ranked by their total scores—highest to lowest. The committee selects the top-ranked finalists (usually from three to five) for further evaluation. The tasks of interviewing, checking references, conducting oral presentations, and making the final selection can be a consideration in determining the number of finalists. Offerors with the lowest scores are eliminated from further consideration at this stage. A listing of the offerors eliminated is made part of the record by the chairperson and forwarded to the Procurement Unit.

If necessary, a second review is made of the finalists, who now are ranked by point scores received. If the list contains more than four or five firms, a second cut may be made. There are no restrictions on classifying all offerors as finalists.

The Procurement Unit team leader should be notified if the committee discussions result in a change in the ranking of the finalists established by the evaluation forms. Changes require a memorandum of explanation to be included in the record. Late changes in scoring must be

avoided as much as possible and may not be permitted under some circumstances.

When the finalists are selected, a memorandum that summarizes the actions taken by the committee is sent to the Procurement Unit team leader with the evaluation forms, other pertinent documents, and committee members' voting records. The memorandum and supporting documents are filed as part of the official public record.

– **Oral Presentation**

It is anticipated that all finalists will complete an oral presentation. The oral presentation provides details and documentation for final scoring and ensures that the offeror is providing the product or service that meets the requirements of MCPS. End users will not begin contract negotiations with an offeror until the committee has had an opportunity to hear the offeror's oral presentation, meet the project manager and other team members, and examine and discuss the offeror's cost proposal.

Each committee member will take notes on a second evaluation form during the presentation. If an evaluation form is not used, complete records must be kept that are acceptable to the Procurement Unit. The notes must indicate results of any committee voting and other information supporting the final award recommendation.

– **Follow-up**

The review committee may request a second written submission to answer questions generated during their initial evaluation meetings. Questions may encompass details of the project, the proposed cost of the work and budget, personnel qualifications, and implementation schedules.

– **Reference Check**

During the reference check process, information is obtained on how the contractor performed for the organization, the extent and type of claims filed, problems that occurred during the contract term, resolution of identified problems, and the contractor's reliability and level of professionalism. Immediately before each finalist's oral presentation, the

committee member responsible for conducting the reference checks reports the results for the reference check. The committee should request clarification from the finalists regarding unfavorable references. The finalist should be given the opportunity to defend any adverse allegations made by former clients. Site visits should be considered, especially if this is a new vendor.

• **Negotiations**

The entire committee or a subcommittee may conduct the negotiation sessions. The subcommittee approach is the preferred method. The negotiation committee may include members who were not on the review committee, if approved by the Procurement Unit team leader. The negotiators must be familiar with the project and the specialty area of the finalists. At the conclusion of negotiations, finalists are requested to provide a best and final offer for the service required.

• **Recommendation for Award**

The recommendation for award is submitted to the Procurement Unit in the form of a memorandum explaining the selection. This memorandum must include the following:

- Names of all the offerors considered
- Name of the recommended finalist
- Summary of the criteria used for evaluation
- An explanation of the selection, including a summary of the process; included as attachments are scoring and voting records, completed evaluation forms, and any other evaluation and scoring documents created during the selection process
- Price, terms, and scope of work of the contract to be awarded

• **Contract Terms**

Quotes, IFBs, and RFPs all contain language related to contract terms. The decision on the type and length of the contract is determined by the need for the goods being purchased and what best serves the interest of MCPS. Multiyear or term contracts may be utilized when it is appropriate to obtain uninterrupted services extending over more than one year or contract term, when the performance of services involves high start-up costs, when a continuous source of supply over a multiyear or term period is required, or when a

changeover of services involves high phase-in/phase-out costs during a transition period. These multiyear or term contracts are authorized under renewal and original long-term contracts.

– **Renewal Contracts**

Renewal contracts are contracts entered into with an original term, usually one year, subject to renewal options of a specified maximum period of time. These contract extensions must be approved by the Board at the end of each contract period.

– **Original Long-term Contracts**

A multiyear or term contract, without the need for renewal, may be entered into only under the following circumstances:

The requesting unit furnishes to the Procurement Unit team leader sufficient written documentation to demonstrate that the requirements contained in the multiyear or term contract are reasonably firm and are continuing over the term of the contract. In addition, the requesting unit must furnish sufficient documentation to the Procurement Unit team leader demonstrating that the contract encourages effective competition or promotes economies in performance and operation and is therefore in the best interest of MCPS. The contract also must include a termination provision, which provides that in the event that funds or terms subsequent to the first term are not appropriated and available for encumbrance for the subsequent years of the contract, the contract may be terminated by MCPS without further liability to the contractor.

Purchase with Financial Agreements

The Procurement Unit processes requests for financing the purchase of materials or equipment. These purchases shall be obtained using one of the competitive procurement methods. A comparison of the cost of outright purchase vs. financed purchase usually is done as part of the budget process. When developing the cost comparisons, the consideration should be given to the following:

- Length of time the equipment is to be used and the extent of its use, including the possibility of use by another MCPS department or division
- Purchase price compared to the sum of the payments, including interest

- Other factors related to functional performance or costs of equipment, including maintenance costs and technology updates

• **Terms of the financial agreement**

All financial agreements must be approved by the director of the Department of Management, Budget, and Planning with final approval by the chief operating officer. Each submission will include a repayment schedule for the official procurement file. The Board must approve all lease/purchase agreements at a public meeting.

Other

• **Professional Services**

There is a recognized need for the procurement of professional services when such services cannot be provided by MCPS personnel (e.g., specialized services, guest lecturer, seminar leader). Although not required by Maryland law, competitive procurement methods may be used if in the best interest of MCPS.

- Purchases less than \$7,500 should be documented by a purchase order.
- Purchases of more than \$7,500 but less than \$25,000 shall reflect at least three quotes and be submitted to the Procurement Unit for a purchase order to be issued. These procurement actions may be taken to the Board for informational purposes.
- Contracts of \$25,000 and above must receive Board approval.
- The requestor, in collaboration with the Office of Human Resources and Development, and the chief financial officer, will determine whether the individual services are classified as either consultant/independent contractor services or an employer/employee relationship. Prior to issuing a contract, the requestor will ensure that appropriate completed service provider tax identification (Social Security number and federal tax identification number) and IRS Form W-9 are obtained.

• **Instructional Materials**

Instructional materials are print and nonprint items that are designed to impart information to the learner in the teaching/learning process. Instructional materials may be consumable and expendable and include such items as charts, kits, textbooks, magazines, pictures, recordings, slides, transparencies, videos, video discs, workbooks and

electronic resources such as software, CD-ROM, and online services.

State Law, the Annotated Code of the Public General Laws of Maryland, Education, Section 7-106:

Selection and purchase of school materials: On the recommendation of the county superintendent of schools and subject to the provisions of this article, each county board shall adopt procedures for the selection and purchase of the following necessary items, at the lowest price consistent with good quality, for the use in the public schools:

- Textbooks
- Supplementary readers
- Materials of instruction
- Visual and auditory aids
- Stationery and school supplies

Refer to Board Policy IIB, *Evaluation and Selection*; Exhibit IIB-EA, *Textbooks, Materials of Instruction, and Supplies (State Law)*; and Regulation IIB-RA, *Evaluation and Selection of Instructional Materials and Library Books*, for the procedures related to the evaluation and selection of instructional materials and library books.

- **Emergency Requests**

An emergency purchase must be fully justified. A written determination and justification establishing the basis for the emergency and for the selection of the particular vendor must be submitted by the requestor to the Procurement Unit prior to creating an obligation. The chief operating officer and the director of DMM will approve or disapprove the purchase as an emergency procurement. The approved written determination shall become part of the procurement file.

An emergency may arise in order to protect personal safety, life, or property (i.e., an occurrence of a serious, urgent, and threatening nature that demands immediate action to avoid termination of essential services or a dangerous condition). In such cases, a purchase order or contract may be awarded by the director of DMM without competitive bidding or competitive negotiation. However, such procurement shall be made with as much competition as is practical under the circumstances. The action, if it is \$25,000

or more, will be taken to the next available Board meeting for approval.

Should an urgent situation occur during normal business hours, departments and schools shall contact the Procurement Unit at 301-279-3555 or procurement@mcpsmd.org. If the emergency is after hours, then staff shall document the situation and his/her actions and provide this information to the Procurement Unit team leader on the next business day.

- **Sole Source and Proprietary**

The chief operating officer must approve the sole source purchase for \$25,000 or above.

Sole source purchases must be supported by the Sole Source Justification form. The form must include a statement from the manufacturer (not a distributor) of the product identifying the requested sole source as the only source available. Once it is determined that there is only one source practicably available for the required good, service, insurance, or construction item, the buyer, in cooperation with the requestor, shall conduct negotiations, as appropriate, to obtain the best price, delivery, and terms.

- **Surplus Property**

MCPS is eligible to pick up federal surplus property from the General Services Administration (GSA) or the Maryland State Agency for Surplus Property. With a letter of authorization issued by DMM and approved by the responsible account manager, an MCPS employee may visit surplus centers and purchase items for use by MCPS. If an item is purchased, the receipt issued by the center must be attached to a completed requisition form and submitted to the Procurement Unit.

8

SECTION

Pre-bid Conference/Site Visits

At the discretion of MCPS, a pre-bid conference may be held to advise known potential bidders of special or technical requirements of a bid and allow the bidders to ask questions about the bid or the work to be performed. The pre-bid conference may involve a site visit of the work area.

Pre-bid conferences and site visits are open to all potential bidders and any other interested parties. Any information disseminated at a pre-bid conference that alters the intent, specifications, or scope of work shall be made available to all bidders. There shall be no private dissemination of information to any bidder or group of bidders that may provide an advantage over other bidders. At the discretion of MCPS, questions may be required in writing and may be answered in writing. Pre-bid conferences also may be recorded. Attendance will be recorded.

With the exception of construction contracts, attendance at pre-bid conferences is not mandatory and, therefore, not a prerequisite to submitting a bid. MCPS shall not answer questions or discuss a bid with potential bidders after a pre-bid conference has concluded (including potential bidders who did not attend a pre-bid conference) unless the answer is provided to all potential bidders at the same time.

Information concerning the attendees at a pre-bid conference shall not be made public until after the award.

9 SECTION

Selection of Vendors

Approved Vendor List

The Procurement Unit maintains a list of active suppliers and contractors. The unit, with the assistance of appropriate staff, constantly appraises suppliers and contractors to ensure that MCPS receives reliable products and maximum value for dollars spent. Suppliers who demonstrate that they are not able to provide products and services as specified may be removed from bidding for a reasonable period of time, as determined by the Procurement Unit.

Advertisements

The Board shall advertise bids for at least 14 calendar days (21 calendar days is preferred). Bids are advertised on the Procurement Unit web page and on eMaryland Marketplace.

Contractors are required to register with eMaryland Marketplace within five days following notice of award. Registration is free. Failure to comply with this requirement may be considered grounds for disqualification. It is recommended that all interested bidders register with eMaryland Marketplace, regardless of the award outcome for a procurement, as it is a valuable resource for upcoming bid notifications for municipalities throughout Maryland.

Prequalification of Bidders

The Procurement Unit team leader is authorized to prequalify bidders prior to a solicitation for a product or service. This will be set forth in the evaluation criteria of the solicitation and advance notice will be given of the deadline for the submission of prequalification applications. Prior to the date established for the submission of bids or proposals to which the prequalification applies, the Procurement Unit team leader shall advise (in writing) each vendor who submitted an application whether or not it has been prequalified. Vendors may request a debriefing regarding denial of prequalification. Failure of a bidder to prequalify with respect to a given procurement shall not bar the bidder from seeking prequalification on future procurements or from responding to procurements that do not require prequalification.

Vendor Obligation

Beginning July 1, 2015, all MCPS contracts must include the following provisions:

- Prohibition against assigning registered sex offenders and individual convicted of sexual offenses, child sexual abuse, and other crimes of violence to MCPS contracts
- Required criminal background check process, including fingerprinting for individuals in the contractors workforce who will have direct, unsupervised and uncontrolled access to students

Refer to Appendix A or the Procurement Unit website for information. <http://www.montgomeryschoolsmd.org/departments/procurement/contractors.aspx>

10 SECTION

Resolution of Protests and Disputes

The Procurement Unit team leader shall attempt to resolve informally all protests or bid award recommendations. Vendors are encouraged to present their concerns promptly to the buyer and/or team leader for consideration and resolution. Open dialogue is helpful for all parties and disputes often are only a misunderstanding of the evaluation and recommendation process.

An interested party (actual or prospective bidder, offeror, or contractor) may protest to the Procurement Unit team leader, a proposed award of a contract for supplies, equipment, services, or maintenance.

1. The protest shall be in writing, addressed to the Procurement Unit team leader with a copy to the director of the Department of Materials Management (DMM) and shall include the following:
 - The name, address, and telephone number(s) of the protester
 - Identification of the solicitation
 - Statement of reasons for protest
 - Supporting documentation to substantiate the claim
 - The remedy sought

2. The protest must be filed with the Procurement Unit team leader within seven calendar days of the date of the pre-award notice.
3. A vendor who does not file a timely protest before the contract is awarded by the Board of Education is deemed to have waived any objection.

The Procurement Unit team leader shall inform the director of DMM and chief operating officer upon receipt of the protest. The Procurement Unit team leader shall confer with the director of DMM and general counsel prior to issuance of a decision regarding disputes of contracts or awards valued at \$25,000 or above, or as deemed appropriate.

The Procurement Unit team leader shall issue a decision in writing. Any decision of a bid award protest may be appealed to the chief operating officer, as the superintendent's designee, within two days of issuance of the decision by the Procurement Unit team leader.

Appeal of Contract Award Decision

A vendor who remains unsatisfied after following the procedures may contest a contract awarded by the Board by filing an appeal to the Maryland State Board of Education, as provided by Maryland's public school law.

11 SECTION

Cooperative Bids and Using Other Jurisdictions

Cooperative Bids

MCPS may enter into cooperative bids with other jurisdictions, as described in the Annotated Code of Maryland Education Section 4-123, Cooperative Administration of Programs. A cooperative bid requires that all jurisdictions involved combine their requirements in one solicitation. Cooperative bids may obtain price advantage due to increased quantities and savings from issuing only one bid solicitation. The Board must approve the awards on all cooperative bids of \$25,000 and above.

Solicitation from Other Jurisdictions

The Procurement Unit team leader may authorize the use of a contract from another jurisdiction, as long as it complies with the Annotated Code of Maryland, Education Section 7-907, and Assistance to Eligible Consortia. In addition to the other jurisdictions, MCPS may use cooperative procurement groups and information from U.S. General Services Administration (GSA), as long as the following criteria are met:

1. The vendor has an existing contract with another public entity for the goods or services required by MCPS.
2. Such a contract promotes the best interest of MCPS.

3. The contract between the entity and the other public entity was awarded as a result of adequate competition.
4. The entity is willing to do a “bridge” letter permitting MCPS to bridge the contract in question.
5. MCPS is permitted to use certain GSA schedules, such as GSA Schedule 70 for computers and associated software.
6. The contract provides MCPS with the same goods or services being provided to the other public entity at the same or lower price.

An office or entity wanting to procure an item using a bid from another jurisdiction must meet with the appropriate buyer and provide—

- bid specifications,
- award information, and
- contract amount and vendor name.

Contracts for \$25,000 and above will be scheduled for approval by the Board.

12

SECTION

Maintenance Services

Most equipment purchased carries a manufacturer's warranty for various periods of time. Users must check the warranty prior to contracting for service.

Equipment purchased with an MCPS bid contract usually is warranted for one year after receipt of the equipment. The warranty is handled by the vendor who supplied the product.

Full-service maintenance: This requires the contractor to provide scheduled services, preventive maintenance, necessary repair parts, and additional service calls as required on an annual contract. Normally, full-service maintenance contracts should be used only on an exceptional basis or when experience with a particular item or type of equipment indicates that maintenance/repair on an as-needed basis is not practical. In providing full-service maintenance, contractors must include all possible contingencies that might occur during the contract period, which usually results in a higher cost. Service contracts should be in place on the first day of the fiscal year if they are used.

Maintenance provided on equipment as needed after warranty, especially newer equipment that needs few or no repairs for a considerable period of time, normally is provided on a time-and-material cost basis. This method usually is more economical in the long run than full-service maintenance.

13 SECTION

Quality Assurance

The Procurement Unit has implemented a Quality Assurance Program that includes—

- standardization (within limitations of federal, state, and local laws and procedures),
- specification writing,
- inspection, and
- testing.

The objective of the MCPS Procurement Manual is to establish the standardization of procurement procedures (Board Policy DJA, *MCPS Procurement Practices and Bid Awards*). All formal bids shall contain the following sections: general terms and conditions, special notices, technical and/or performance specifications, proposal forms, and signature/addenda acknowledgment. All RFPs shall contain a Part A, Technical section, and a Part B, Business section. All bids, RFPs, and quotes will be retained by the Procurement Unit.

The unit retains all documented information (negative and positive) from the users related to the goods and services procured. End-user preference is not appropriate in governmental purchasing. User complaints will be reviewed and given consideration when making procurement decisions. Attention by the requestor to general conditions and item specifications is critical to getting the product in a timely manner, at the negotiated price.

14

SECTION

Purchase of Used Equipment

The Procurement Unit will negotiate the purchase of used equipment, after receipt of a written statement from a person assigned by DMM who has technical knowledge of the type of equipment to be purchased. In such documentation, the requestor shall verify the condition of the equipment, its future usefulness, that there is only one source practically available from which the used equipment can be procured, and justification as to why the purchase would promote the best interest

of MCPS. All purchases for used equipment will be made using the MCPS procurement system to ensure the retention of all documentation in the permanent procurement file. If the estimated total purchase price is \$25,000 or above, the Procurement Unit will follow formal bid procedures along with requesting approval from the Board to make the purchase. The requestor may be responsible for obtaining all future maintenance support.

15

SECTION

Disposal of Property

The director of the Department of Materials Management shall sell, transfer, trade, or otherwise dispose of MCPS property that has become obsolete and/or unusable for surplus (Board Policy DNA, *Disposition of Board of Education Property*, MCPS Regulation DNA-EA, *Disposal of School Property (State Law)*, MCPS Regulation DNA-RA, *Disposition of Board of Education Property*, MCPS Financial Manual, chapter 16, Property Accounting).

16

SECTION

Customer Relations

The Procurement Unit provides vendor contracts for schools and offices to purchase high-quality goods and services at reasonable costs. Cooperation and mutual confidence is essential to a successful procurement process.

The Procurement Unit strives to advance the interests of the Board by keeping informed of current products, market conditions, and changes in technology. The unit staff collaborates with offices, departments, divisions, and schools to ensure that all have a full understanding of the required procurement practices and procedures.

17

SECTION

Unauthorized Purchases

Whenever any officer or employee of MCPS purchases or contracts for any supplies or contractual services contrary to the provision of the MCPS Procurement Manual, such purchases or contracts shall be void and shall not be considered to be an obligation of the Montgomery County Board (Board Policy DJA, *MCPS Procurement Practices and Bid Awards*).

18 SECTION

Vendor Relations

All transactions relating to the expenditure of appropriated and activity funds require the highest degree of public trust. To eliminate conflicts of interest or inappropriate conduct, MCPS personnel are not authorized to solicit, demand, accept, or agree to accept from vendors any payment, advance, deposit of money, services, or goods. Account managers should exercise caution when dealing with vendors to ensure that proper procurement procedures and policies are followed, (Board Policy BBB, *Ethics*; MCPS Regulation DJA-RB, *Purchases of Materials and Equipment Using Nonappropriated Funds and Acceptance of Donated Items*; MCPS Regulation GCA-RA, *Employee Conflict of Interest*; and MCPS Regulation GCB-RA, *Reporting and Handling Fraudulent Actions by MCPS Employees, Agents, or Contractors*).

The Procurement Unit must select vendors that are reputable and will promote the best interests of MCPS. Factors such as quality, reliable and timely delivery, and prices are considered when selecting or continuing to do business with a vendor.

All responsible vendors are given an opportunity to present their products. Every effort is made to establish strong and lasting relations with proven suppliers. The Procurement Unit seeks alternative sources in the event that a supplier fails to deliver materials or services or as a means to obtain reduced prices. Fundamental considerations relative to selection of vendors for bid activity are as follows:

- Potential vendors must have a good business reputation, adequate financial standing, and facilities to fulfill their commitments.
- Every effort shall be made to select suppliers who are capable of producing high-quality products, as specified, at a low cost.

- A formal bid invitation will be mailed to those vendors, by commodity, whose names appear on the master bidder list and have responded in the past two purchasing cycles.

Vendor Access to Information

Except as noted in this manual, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to the public. Interested parties may review public documents by appointment and at the convenience of MCPS.

Any participating bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids, except in the event that MCPS decides to reject the bids and to reopen the contract.

Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed, except in the event that MCPS decides to reject any of the proposals and to reopen the contract. Proposal records shall be open to public inspection after award of the contract, subject to the provisions of this section.

Trade secrets, proprietary information, or financial disclosure submitted by a bidder, offeror, or contractor in connection with a procurement transaction or prequalification application shall not be subject to public disclosure if the bidder, offeror, or contractor requested this protection. The bidder, offeror, or contractor must invoke the protection prior to or upon submission of the data or other materials, identify the data or other materials to be protected, and state the reasons why protection is necessary.

19 SECTION

Environmentally Preferred Procurement

MCPS is committed to buying more environmentally preferable products (EPP), also referred to as “green products,” and services as long as they meet our performance needs and are available within a reasonable period of time at a reasonable cost. Per the 1993 U.S. Government Executive Order, EPP items are defined as commodities or services that are less detrimental to the environment and health than competing commodities or services used for the same purpose. EPP items include commodities or services that minimize waste, use recycled materials, conserve energy or water, and reduce the consumption or disposal of toxic material.

Below is a list of recommended products:

- Recycled printer and copier paper
- Other paper products containing the highest recycled content available
- Remanufactured toner cartridges
- Appliances with Energy Star rating
- Office supplies manufactured with recycled/post-consumer waste materials
- Energy-saving lamps and ballasts
- Computers meeting EPEAT™ (Electronic Product Environmental Assessment Tool) silver or gold rating
- Printers and copiers with duplex printing capability

Cleaning and Janitorial Products and Services

In 2012, the Annotated Code of Maryland, Education Section, 5-112, Bids, was amended to include specific language related to the procurement of green product cleaning supplies stating that, to the extent practicable, and economically feasible, a county board shall procure green product cleaning supplies for use in its schools. Additionally, county boards are to draft specifications that provide a clear and accurate description of the functional characteristics or nature of the green product cleaning supplies being procured.

Therefore, all cleaning products in MCPS schools and buildings will be certified EPP cleaning products if labeled Green Seal, Green Label, Environmental Choice, TerraChoice, or Ecologo. Vendors that are contracted by the Board to perform janitorial and custodial services shall also use EPP-labeled cleaning products in the execution of their contractual obligations. Categories of cleaning products specifically not included in this requirement are disinfectants, disinfecting cleaners, sanitizers, or any other antimicrobial products regulated by the *Federal Insecticide, Fungicide, and Rodenticide Act*, 7 USC 136 et seq., or products for which no guideline or environmental standard has been established.

The Procurement Unit, in partnership with the Department of Facilities Management, Division of School Plant Operations, will issue contracts with vendors only to provide EPP cleaning products as well as approved disinfectants, disinfecting cleaners, sanitizers, and antimicrobial products sanitizers. To access the contract (bid items) for janitorial and custodial supplies, visit the MCPS website: http://montgomeryschoolsmd.org/departments/procurement/Contracts/Contract_Summaries.shtm

The buyer for this commodity is located in the Procurement Unit and may be contacted with any questions concerning these products by calling 301-279-3555 or by e-mail procurement@mcpsmd.org.

Facility Design

The school system is committed to the construction of sustainable structures and uses a concise framework for identifying and implementing practical and measurable green building design, construction, operations, and maintenance solutions. This framework is the Leadership in Energy and Environmental Design (LEED) developed by the U.S. Green Building Council (USGBC), which consists of a suite of rating systems for the design, construction, and operation of high-performance green buildings. For specific information, visit the Department of Facilities Management website: <http://www.montgomeryschoolsmd.org/departments/facilities/>.

20 SECTION Definitions

Definitions [adapted from the **NIGP dictionary** (www.nigp.org)]

Advertise: To call public attention of intent to purchase or sell goods and services required by the Board of Education (Board).

Award (of Contract): A decision made by the Board to accept a written proposal offered by a bidder for a contract of \$25,000 or above. For a contract of less than \$25,000, the director of the Department of Materials Management or designee makes an award.

Bid (Formal Written Sealed): When an item or group of related items amount to more than \$25,000, formal bids are required. These are advertised and submitted in writing (usually according to a prescribed form), sealed, delivered, and opened at a prescribed time and place with the interested parties invited to be present.

Bidder: Any individual, company, firm, corporation, partnership, or other organization bidding on a solicitation issued and offering to enter into a contract.

Brand Name or Equal (BNE): A reference used to convey the general style, type, character, and/or quality of the goods desired (i.e., any good determined to be an approved “equal” of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended shall be accepted).

Bridge Letter: A letter authorizing MCPS to purchase products using another governmental or school district contract.

Change Order: Document used to amend a purchase transaction previously formalized by a purchase order.

Competitive Bidding: The submission of bid prices in response to either a verbal request for phone quotes, an unsealed or sealed Invitation for Bid (IFB) by individuals, or firms competing for a contract to supply goods or services.

Competitive Negotiation: A method of contracting for goods and/or services whereby proposals are solicited from

qualified offerors following submission of which negotiation takes place, usually resulting in changes in proposals and prices. The final offer deemed to be most advantageous in terms of established criteria, as designated in the Request for Proposal (RFP), is accepted and an award made to that offeror.

Consultant: A person or company who has contracted to provide a professional or technical service.

Contract: A deliberate agreement between two or more competent persons to perform or not to perform a specified act or acts. The contract may be in the form of a purchase order, letter of intent, or formal written agreement signed by the parties.

Emergency Purchase: A purchase required to protect personal safety, life, or property (i.e., an occurrence of a serious, urgent, and threatening nature that demands immediate action to avoid termination of essential services or a dangerous condition).

Immediate Family: A spouse, child, parent, brother, sister, and any other person living in the same household as the employee.

Individual Services: Assistance provided to a specific project or assignment by an individual with specialized skills or expertise not available within MCPS, whereby the purchasing of such service(s) is to augment permanent staff (i.e., technical editing, interpreting, training).

Invitation for Bid (IFB): A sealed bid process for the procurement of goods and/or services that includes a formal advertisement, specifications and conditions for the particular purchase, and a predetermined date and time for the bid opening.

Letter of Intent: A preliminary contractual arrangement customarily used in situations where items, quantities, price, and delivery dates are known, but where the principle contract provisions are incomplete.

Procurement: The formal act of contracting for materials, supplies, equipment, or services by means of price quotation by telephone, in writing, or by formal bid.

Proposal: An offer made by one party to another as a basis for entering into contract.

Proprietary Specifications: A purchase description that restricts the acceptable products to those of one manufacturer, excluding the consideration of “equals” from different manufacturers. Proprietary items may be available from several distributors through competitive bidding.

Public Bid Opening: The process of opening and reading bids received at the time and place specified in the Invitation for Bid.

Quotation: A statement of price, terms of sale, and description of goods or services offered by a vendor to a buyer.

Request for Information (RFI): A nonbinding method whereby a jurisdiction publishes, via newspaper, Internet, or direct mail, its need for input from interested parties for an upcoming solicitation. A procurement practice used to obtain comments, feedback, or reactions from potential suppliers (contractors) prior to the issuing of a solicitation. Generally price or cost is not required. Feedback may include best practices, industry standards, and technology issues, among other things.

Request for Proposal (RFP): All documents, whether attached or incorporated by reference, utilized for soliciting proposals when the actual requirements to complete the scope of work are unknown. The Request for Proposal (RFP) will specify the evaluation factors to be used and contain or incorporate by reference other applicable contractual terms and conditions applicable to the procurement. In contrast to competitive bidding (Invitation for Bid), this procedure permits negotiation of proposals and prices.

Requisition/Purchase Order: A form that is used as the vehicle to request the purchasing office to procure goods or services from vendors. Once approved, the purchase order becomes the document that authorizes a vendor to deliver to the Board goods and/or services required for system operations and for which a general appropriation has been made.

Requisitioner: A person, department, or school requiring the need for a product and/or service in order to support the operating program.

Requirements Contract: A form of contract covering long-term requirements used when the total quantity required cannot be fixed definitely but can be stated as an estimate or within maximum and minimum limits, with deliveries on demand.

Responsible Bidder or Offeror: A person or vendor who has the capability and capacity in all respects to fully satisfy and perform the contractual requirements, and who has the moral and business integrity and reliability that will ensure good faith performance.

Responsive Bidder or Offeror: A person or vendor who has submitted a bid or proposal response to an Invitation for Bid (IFB) or Request For Proposal (RFP) that conforms in all material respects to that specified in the solicitation.

Sealed Bid: A bid that has been submitted in a sealed envelope to prevent its contents from being revealed, known, or compromised before the deadline set for the submission and opening of all bids.

Service: Any work performed by an independent contractor wherein the payment is primarily for the services rendered rather than the acquisition of equipment or materials or the rental of equipment, materials, and supplies.

Service Contract: A contract entered into with a person or vendor that agrees to accomplish a certain result and has full control over the manner and method to be pursued. A service contract involves primarily labor-intensive tasks (either skilled or unskilled) that a contractor agrees to perform. Service contracts within this category do not include the professional services that are obtained under the policy for architectural and engineering services.

Sole Source: A product or service that is practically available from only one vendor (i.e., the company is the sole manufacturer and distributor, or specific unique requirements exist that cannot be reproduced in the market place).

Solicitation: The process of notifying prospective bidders or offerors that MCPS desires to receive bids or proposals for the acquisition of goods or services. This notification process consists of mailing an Invitation for Bid (IFB) or a Request for Proposal (RFP) to prospective bidders or offerors and posting applicable notices or placing telephone calls to prospective bidders.

Specifications: A clear, complete, and accurate description of the materials, supplies, equipment, and services required by the Board in a quotation or bid form.

Used Equipment: That which has been previously owned and used, excluding factory-rebuilt, remanufactured, or demonstrator units.

Vendor: A person or company that provides goods or services.



APPENDIX **Contractors' Obligation**

Contractors' Obligation Regarding Criminal Records of Individuals Assigned to Work in MCPS Facilities

Beginning July 1, 2015, all MCPS contracts must include the following provisions:

I. Prohibition against assigning registered sex offenders and individuals convicted of sexual offenses, child sexual abuse, and other crimes of violence to MCPS contracts:

Maryland Law requires that any person who enters into a contract with a county board of education “may not knowingly employ an individual to work at a school” if the individual is a registered sex offender. Under § 11-722 of the Criminal Procedure Article of the Maryland Code, an employer who violates this requirement is guilty of a misdemeanor and, if convicted, may be subject to up to five years imprisonment and/or a \$5000 fine.

Effective July 1, 2015, amendments to § 6-113 of the Education Article of the Maryland Code further require that a contractor or subcontractor for a local school system may not knowingly assign an employee to work on school premises with direct, unsupervised, and uncontrolled access to children, if the employee has been convicted of, or pled guilty or nolo contendere to, a crime involving:

- a) A sexual offense in the third or fourth degree under § 3-307 or § 3-308 of the Criminal Law Article of the Maryland Code or an offense under the laws of another state that would constitute an offense under § 3-307 or § 3-308 of the Criminal Law Article if committed in Maryland;
- b) Child sexual abuse under § 3-602 of the Criminal Law Article, or an offense under the laws of another state that would constitute child sexual abuse under

§ 3-602 of the Criminal Law Article if committed in Maryland; or

- c) A crime of violence as defined in § 14-101 of the Criminal Law Article, or an offense under the laws of another state that would be a violation of § 14-101 of the Criminal Law Article if committed in Maryland, including: (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking; (11) armed carjacking; (12) sexual offense in the first degree; (13) sexual offense in the second degree; (14) use of a handgun in the commission of a felony or other crime of violence; (15) child abuse in the first degree; (16) sexual abuse of a minor; (17) an attempt to commit any of the crimes described in items (1) through (16) of this list; (18) continuing course of conduct with a child under § 3-315 of the Criminal Law Article; (19) assault in the first degree; (20) assault with intent to murder; (21) assault with intent to rape; (22) assault with intent to rob; (23) assault with intent to commit a sexual offense in the first degree; and (24) assault with intent to commit a sexual offense in the second degree.

Each contractor is required to submit, following award of a contract, documentation confirming that its direct employees and those of any subcontractors and/or independent contractors assigned to perform work in a MCPS school facility under the contract meet this obligation. Additionally, the contractor must confirm that it continues to meet this obligation on an annual basis and/or when there are changes in the work-force that the contractor and/or its subcontractors use to perform the work required by the contract.

Violation of this provision is a material breach of contract for which MCPS may take appropriate action up to and including termination of the contract.

II. Required criminal background check process for certain individuals in the contractor's workforce:

Under recent amendments to § 5-551 of the Family Law Article of the Maryland Code, each contractor and subcontractor shall require that any individuals in its work-force must undergo a criminal background check, including fingerprinting, if the individuals will work in a MCPS school facility in circumstances where they have direct, unsupervised, and uncontrolled access to children. The term "work-force" in this and the preceding section refers to all of the contractor's direct employees, subcontractors and their employees, and/or independent contractors and their employees that the contractor uses to perform the work required by the contract.

Fingerprinting for the criminal background check may be performed by the MCPS Office of Human Resources and Development, 45 W. Gude Drive, Rockville, MD 20850, or through another service approved by MCPS. Individuals fingerprinted by MCPS will be required to provide written consent, and MCPS will maintain copies of all records for criminal background checks performed by MCPS. If the contractor uses another service approved by MCPS, the results of the criminal background check must be provided to MCPS for record keeping. A list of MCPS approved fingerprinting agencies can be found on the Procurement Unit website at <http://www.montgomeryschoolsmd.org/departments/procurement>.

The contractor must take appropriate steps to promptly follow up on information identified in the criminal background check related to the sexual offenses, child sexual abuse offenses, and crimes of violence enumerated above, as well as any information regarding offenses involving distribution of drugs or other controlled substances, or any other criminal information identified by MCPS as warranting further explanation insofar as it may significantly affect the safety and security of MCPS students. If, after following up, the contractor believes that the individual is qualified and should be assigned to work (or continue to work) in a MCPS school facility, then the contractor will provide a written summary to MCPS justifying its recommendation. MCPS will rely on the contractor's summary to determine whether

to accept the contractor's recommendation, and the contractor will be responsible for any consequences of a material misrepresentation in its written summary.

Once the contract is awarded, the contractor is responsible for implementing the background check process. An individual in the contractor's work-force may not begin work in a MCPS school facility on an assignment where the individual will have direct, unsupervised, and uncontrolled access to children, until: (a) the background check results for that individual have been received by MCPS; (b) the contractor certifies to MCPS that the individual has received training and/or reviewed informational materials, as appropriate, regarding recognizing, reporting, and preventing child abuse and neglect, consistent with the content provided in training for MCPS employees; and (c) the individual obtains a MCPS identification badge. The badge will be issued by the MCPS Department of Safety and Security, 850 Hungerford Drive, Room 131, Rockville, MD 20850. Appointments are made by calling 301-279-3066. The contractor will be required to return all badges at the conclusion of the contract.

The criminal background check and badging process will be at the contractor's expense.

Violation of this provision is a material breach of contract for which MCPS may take appropriate action up to and including termination of the contract.



Response Form for Required Criminal Background Checks

Department of Materials Management, Procurement Unit
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland 20850

MCPS Form 235-40
October 2015
Page 1 of 2

**PLEASE COMPLETE AND RETURN TO THE
PROCUREMENT UNIT WITHIN 10 BUSINESS DAYS:**
45 West Gude Drive, Suite 3100, Rockville, MD 20850 or
Fax to 301-279-3173

Under a Maryland law (Section 6-113 of the Education Article of the Maryland Code) enacted in July, 2015, any contractor or member of the contractor’s workforce who will be working in a Montgomery County Public Schools (MCPS) facility where they have direct, unsupervised, and uncontrolled access to students must undergo a criminal background check, including fingerprinting. This new law is in conjunction with the Maryland law stating that contractors may not knowingly employ a registered sex offender to work in a school. Additional information can be found by viewing the Contractor Obligation Packet at <http://www.montgomeryschoolsmd.org/departments/procurement>.

SECTION 1: CONTRACTOR INFORMATION—to be completed for new contracts and current contract extensions.

Company Name: _____
 Print Representative’s Name: _____ Date ____/____/____
 E-mail: _____
 Address _____ Phone Number ____ - ____ - ____
 Tax ID# _____ OR Social Security #: ____ - ____ - ____
 Contract/RFP/Bid # and Name: _____

SECTION 2: PLEASE CHECK THE STATEMENT THAT APPLIES AND RESPOND ACCORDINGLY

As an independent contractor, or having individuals in my direct employ, or having subcontracted out part or all of my work for MCPS

A. _____ I/WE will have direct, unsupervised or uncontrolled access to children while performing work for Montgomery County Public Schools (MCPS).

These individuals will undergo a criminal background check, including fingerprinting, receive required MCPS training, and be issued a MCPS identification badge prior to performing work for MCPS. Please see the MCPS Contractor Obligation Packet for approved methods of obtaining required fingerprinting services.

Name _____ Date of Birth ____/____/____

- These individuals have undergone a criminal background check, including fingerprinting, within the last 12 months, but have not been approved for MCPS identification badges. The respective criminal background check report for each individual is attached. The reports will be reviewed and must be approved by MCPS before these individuals are notified to receive required MCPS training and be issued a MCPS identification badge.

Name _____ Date of Birth ____/____/____

- I am an existing contractor and we are in compliance with all MCPS contractor requirements. **All of our staff have been approved for MCPS identification badges.** I understand that I must notify MCPS if I am adding additional staff or subcontractor staff or if I am removing staff from my workforce and have attached a separate list of those individuals.

B. _____ Neither myself nor any of the individuals in my direct employ, or who have been subcontracted, will have direct, unsupervised or uncontrolled access to children while performing work for MCPS for the following reason:

SECTION 3: SIGNATURE

This documentation confirms that the company’s direct employees, and those of any subcontractors and/or independent contractors assigned by this company to perform work in a MCPS school facility under the contract, meet the criminal background check, including fingerprinting, obligation as specified in Maryland law, Section 6-113 of the Education Article of the Maryland Code.

Signature _____

Printed Name: _____ Date ____/____/____



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