Current Procurement Policy
Bendle Public Schools

RE: Procurement of Supplies, Materials and Equipment

3610 PURCHASING GOODS AND SERVICES

The Superintendent shall be the sole purchasing agent for the District.

Purchasing from District Employees

The purchase of equipment, supplies, and/or services from District employees or the immediate families of District employees shall be restricted as follows:

1. The employee is not a District administrator;
2. The costs are competitive and quality is at least comparable to those of other potential suppliers.

Purchases through the District

Board members and employees shall not make any purchase through the District for personal use. The name of the District or school, or an employee’s position, shall not be used in such manner that discounts or cost preferences are given to such person. Purchasing equipment and supplies by the district for resale to employees is prohibited.

Emergency Purchases

Emergency purchases may be made without using the quotations or bidding process. Such emergencies may arise because of an accident or other unforeseen occurrence that could affect the life, health, welfare, or safety of the District’s students or employees.

Approved: April 27, 2009

LEGAL REF: MCL 15,321-330; 380.1216; 380.1274

3610-R PURCHASING GOODS AND SERVICES

Purchasing Goods and Services

The Superintendent, or a person designated specifically by the Superintendent, shall be empowered to sign lease agreements on behalf of the District regardless of duration of the lease or the amount of the expenditure. It shall be the general practice of the District that, with the exception of technology equipment, such as computers, printers, scanners, copying machines, and the like, and certain transportation equipment, no lease shall be entered into that encumbers the District and the Board for more than a two-year period.

Approved: April 27, 2009
3620 PURCHASING RULES AND REGULATIONS

The Superintendent shall develop the necessary administrative guidelines to implement this policy, including requisition and approval procedures, verification that goods have been received in an acceptable condition, and services performed in an acceptable manner.

Approved: April 27, 2009

M.C.L.A 380.1267, 380.1274 et seq.

3625 ADMINISTRATIVE LEEWAY

In the event of an emergency such as a power failure, severe cold weather or other such natural disasters, the Superintendent shall have the authority to purchase capital equipment needed to keep the schools of the District open or to reopen the schools. The Board, at a special or regular meeting as soon as possible after the purchase is made, shall approve any such purchases.

Such purchases shall not be made to circumvent the purposes of the competitive bid law.

Approved: April 27, 2009

3630 PURCHASES SUBJECT TO BID

The purchasing objective of the Board of Education shall be to provide services, materials and supplies which offer District personnel the most effective and efficient means to perform their tasks. The policy of the Board will be to acquire these at a minimum possible cost, but taking into consideration the best interests of the School District. The Superintendent shall serve as the purchasing agent for the School District

It is recognized that the Board does rely upon the Superintendent and his/her staff to administer the business operations of the schools. Because the Board cannot relinquish its responsibility and accountability as an agent of the State and the citizenry of the District, the following guidelines are established with regard to purchasing procedures:

General Guidelines

In awarding purchases or contract for services, the Superintendent shall consider the following: price, quality of product, service, delivery, and maintenance of product, suitability of product, conformance to specifications, past performance to the School District, and vendor reliability.

The Board reserves the right to accept or reject any bid.

The Board will have a fully operative purchase order system as a means of budgetary control.

Vendor competition in purchasing shall be practiced whenever possible.

All expenditures from a building and site fund shall be presented to the Board for approval before a commitment is made, except for emergency situations.
Before funds are expended, there must be sufficient funds in the appropriate account, or amounts transferred into the appropriate account, by the Superintendent or Board according to the transfer authority provided in the General Appropriations Act.

The Superintendent shall make available to the Board, upon request, the price quotations or competitive bids obtained from vendors for goods or services. These copies are to be retained by the Superintendent until the audit for a fiscal year has been formally accepted by the Board.

In awarding purchases or contract for services, the Superintendent shall consider the following: price, quality of product, service, delivery, and maintenance of product, suitability of product, conformance to specifications, past performance to the School District, and vendor reliability.

Approved: April 27, 2009

3640 COMPETITIVE BIDS

No purchase shall be made for goods or non-teaching services performed by other than the District's employees in a single transaction costing more than required for competitive bidding by the Michigan Department of Education. Bids for those goods and services are obtained and the purchase is approved by the Board.

Such bids shall be opened at a specific time and place as stated in the bid advertisement or in the invitation to bid. Bids may be opened by the Superintendent and/or his/her designee at the time and place as stated, and analyzed and brought to the Board at a regular or special meeting with recommendations as to which bids should be accepted.

All bids received after the date and time specified shall be returned to the bidder unopened. Changes in the amount or condition of the bid will not be allowed once the bid has been received.

Items purchased through the Genesee Area School Business Officials Cooperative Purchasing program, Regional Educational Media Center, #14, County, or State bids are considered to have complied with this policy.

Approved: April 27, 2009

3650 COMPETITIVE BIDS ON BUILDING CONSTRUCTION, RENOVATION AND REPAIRS

Prior to commencing construction of a new building, or additions to or repair or renovation of a existing building costing $10,000 or more, the Board shall obtain competitive bids on all material and labor to be required to complete the proposed construction, addition, repair or renovation. Repair work done by School District employees is exempted from the bidding requirement.

The Board shall advertise for bids once each week for two (2) successive weeks in a newspaper of general circulation in the area where the building or addition is to be constructed, or where the repair or renovation of the building is to take place.

Bids shall be opened and examined by the Board at a public meeting. The Board may reject any or all bids, and shall re-advertise in the event all bids are rejected, in the manner provided by law and this policy.

Voluntary alternates submitted by bidders shall not be considered in determining low bids. However, such alternates may be negotiated after the successful bidder has been determined.
Each bidder may be required to file security with the Board, in the amount of five (5) percent of the amount of the bid, conditioned to secure the School District from loss or damage by reason of the withdrawal of the bid or by the failure of the bidder to enter a contract of performance if the bid is accepted by the Board.

3550-R BIDS AND QUOTATION REQUIREMENTS

Non-Competitive Bid Purchases

Non-competitive bid purchases may be made when there is only one supply source provided the amount does not exceed bidding requirement limitation.

Informal Quotations

Verbal quotations of price on equal products or services secured in person or by telephone may be used in purchases for routine supplies used by the District.

The Superintendent shall make available to the Board, upon request, the price quotations, or competitive bids obtained from vendors for goods or services.

Formal Bid Quotations

The Superintendent is authorized to purchase any item, or group of items in a single transaction, costing no more than allowed under current law. The Superintendent shall use discretion in deciding whether such purchases are made based on requested quotations or through advertising for bids.

5230 R1 CONFLICT OF INTEREST

All Board of Education members, employees, and volunteers employed by and, or affiliated with Bendle Public Schools shall:

- avoid being placed in a position of conflict of interest, and refrain from using their positions for personal partisan gain;
- take no private action that will, or potentially could compromise the Board, administration, staff, or students and respect the confidentiality of information privileged under applicable law.

When a member of the Board determines a possible personal interest conflict exists, said member should prior to the matter being considered, disclose his/her interest (such disclosure shall become a matter of record in the minutes of the Board), and thereafter shall abstain from participation in both the discussion of the matter and the vote thereon.

No Board member shall use his/her position as a Board member to benefit himself/herself or any other individual or agency apart from the sincere interest of the School District

For purpose of this policy, “Conflict of Interest” is defined as:

- any financial interest that may or could result for a Board member, or family member from participation in the decision making process by the Board member or a member of his/her family;
- involvement that creates a competing financial interest in a contract or other financial transaction.

Board members shall not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts involved with federal grant funds. A Board member may, however, accept a gift of unsolicited items of “nominal value” from a contractor or party to subcontracts that do not involve federal grant funds. For purposes of this section, nominal value is defined in accordance with MCL 380.634.
6325 PROCUREMENT—FEDERAL GRANTS/FUNDS

Procurement of all supplies, materials, equipment, and services paid for from Federal funds or District matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, Board of Education policies, and administrative procedures.

The Superintendent shall maintain a procurement and contract administration system in accordance with the USDOE requirements (2 CFR 200.317-.326) for the administration and management of Federal grants and Federally-funded programs. The District shall maintain a contract administration system that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of the District’s documented general purchasing Policy 6320 and AG 6320A.

All district employees, officers, and agents who have purchasing authority shall abide by the standards of conduct covering conflicts of interest and governing the actions of its employees, officers, and agents engaged in the section, award, and administration of contracts as established in any related board policies.

The District will avoid acquisition of unnecessary or duplicative items. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These consideration are given as part of the process to determine the allowability of each purchase made with Federal funds.

To foster greater economy and efficiency, the District may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

Competition
All procurement transactions shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgement. In order to promote objective contractor performance and eliminate unfair competitive advantage, the District shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or request for proposals from competition for such procurements.

Some of the situation considered to be restrictive of competition include, but are not limited to, the following:
   a) unreasonable requirements on firms in order to them to qualify to do business;
   b) unnecessary experience and excessive bonding requirements;
   c) noncompetitive contracts to consultants that are on retainer contracts;
   d) organizational conflicts of interest;
   e) specification of only a “brand name” product instead of allowing for an “or equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
   f) any arbitrary action in the procurement process.

Further, the District does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless (1) an applicable Federal statute expressly mandates or encourages a geographic preference; or (2) the District is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
To the extent that the District uses a pre-qualified list of persons, firms or products to acquire goods and services, the pre-qualified list includes enough qualified sources as to ensure maximum open and free competition. The District allows vendors to apply for consideration to be placed on the list through subscription to the state required “Sigma Procurement System.”

**Solicitation Language**

The District shall require all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Board will not approve any expenditure for an unauthorized purchase of contract.

**Procurement Methods**

The district shall utilize the following methods of procurement:

(a) **Micro-purchases**

Procurement by micropurchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed $3,500.00. To the extent practicable, the district shall distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if Superintendent considers the price to be reasonable. The District maintains evidence of this reasonableness in the records of all purchases made by this method.

(b) **Small Purchases**

Small purchase procedures provide for relatively simple and informal procurement methods for securing services, supplies, and other property that does not exceed the competitive bid threshold at the time of purchase. Small purchase procedures require that price or rate quotations shall be obtained (when possible) from multiple qualified sources.

(c) **Sealed Bids**

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment which amounts to the amount allowed by Michigan statute and when the Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which will exceed the amount allowed by Michigan statute.

In order for sealed bidding to be feasible, the following conditions shall be present:

1. a complete, adequate, and realistic specification or purchase description is available;
2. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
3. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:
Bids shall be solicited in accordance with the provisions of State law and all relevant board policies. Bids shall be solicited from an adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised.

The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.

All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.

A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken.

(d) Competitive Proposals

Procurement by competitive proposal, normally conducted with more than one source submitting an offer, is generally used when conditions are not appropriate for the use of sealed bids or in the case of recognized exception to the sealed bid method.

If this method is used, the following requirements apply:

1. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
2. To the extent possible, proposals shall be solicited from an adequate number of sources.
3. The District shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.
4. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E professional services whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

(f) Noncompetitive proposals

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. the item is available only from a single source
2. the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
3. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District.
4. after solicitation of a number of sources, competition is determined to be inadequate

Contract/Price Analysis

The District shall perform a cost or price analysis in connection with every procurement action in excess of $150,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.
This method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the District shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

**Time and Materials Contracts**

The District uses a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the District is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the District shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

**Suspension and Debarment**

The district will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the District and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the District shall consider such factors as (1) contractor integrity; (2) compliance with public policy; (3) record of past performance; and (4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The district is subject to and shall abide by the nonprocurement debarment and suspension regulations implementing Executive Orders 12549 and 12689 CFR Part 180.

Suspension is an action taken by the District that immediately prohibits a person form participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensure. A person so excluded is suspended (2 CFR Part 180 Subpart G).

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred (2 CFR Part 180 Subpart H).

The District shall not subcontract with, or award subgrants to any person or company who is debarred or suspended. For contracts over $25,000; the District shall confirm that the vendor is not debarred or suspended by either checking the Federal government’s System for Award Management, which maintains a list of such debarred or suspended vendors at [www.sam.gov](http://www.sam.gov); collecting a certification from the vendor or adding a clause or condition to the covered transaction with that vendor (2CFR part 180 Subpart C).

**Bid Protest**

The District maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Superintendent within seventy-two hours of the opening of the bids in protest.
Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

**Maintenance of Procurement Records**
The District maintains records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (including a cost or price analysis).

**APPROVED: June 11, 2018**