

1 The Transylvania County Board of Education (the “board”) strives to obtain high quality
2 services at a reasonable price through the bidding process employed by the school system. **This**
3 **policy describes state and local requirements. Any contracts funded with federal funds must also**
4 **be made in accordance with the terms and conditions of the federal award and all applicable**
5 **requirements of federal law and regulation, including the Uniform Administrative Requirements,**
6 **Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance”) issued by**
7 **the U.S. Office of Budget and Management. (See also policy 8305, Federal Grant**
8 **Administration.)**
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10 **A. STANDARDS FOR PARTICIPATION IN CONSTRUCTION CONTRACTS**

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12 All contracts formally or informally bid will be awarded to the lowest responsible bidder,
13 taking into consideration quality, performance, reliability, and the time specified in the
14 bids for performance of the contract. Contracts will contain a provision stating that the
15 contractor and contractor’s subcontractors, if any, must comply with the requirements of
16 G.S. Chapter 64, Article 2. Prior to bidding, contractors may be required to prequalify if
17 the board has elected to use this process. No contract may be entered into with a
18 restricted company as listed by the state treasurer in accordance with G.S. 147, art. 6E or
19 6G, except as permitted by those laws.
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21 The board prohibits discrimination against any person or business on the basis of race,
22 color, ethnic origin, sex, disability, or religion. In addition, in accordance with G.S. 143-
23 133.5, the board prohibits discrimination against a bidder or contractor for being party to,
24 refusing to be party to, adhering to, or refusing to adhere to an agreement with a labor
25 organization. The superintendent is required to conduct contracting and purchasing
26 programs so as to prevent such discrimination.
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28 The superintendent, on behalf of the board, must certify that good faith efforts have been
29 made to increase the participation in construction contracts by minority-owned and
30 female-owned businesses, as required by policy 9125, Participation by Minority
31 Businesses.
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33 The board will grant a North Carolina resident firm providing architectural, engineering,
34 surveying, construction management at-risk service, design-build services, or public-
35 private construction services a preference over a nonresident firm, if the home state of the
36 nonresident firm has a practice of granting a preference to its resident firms over North
37 Carolina resident firms. Any preference granted to a resident firm will be in the same
38 manner, on the same basis, and to the same extent as the preference granted by the
39 nonresident firm’s home state. The school system’s bid documents will require that
40 nonresident firms disclose and describe any construction contract preferences granted by
41 the firm’s home state.
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43 **B. BIDDING METHODS**

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45 The board may request bids for contracts for building projects using single prime, multi-
46 prime (separate prime), construction management at-risk, dual bidding, design-build,
47 design-build bridging, and public-private partnership methods, as permitted by law. The
48 superintendent shall make a recommendation to the board as to the method(s) that should
49 be used for a particular project.
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51 If the superintendent believes the project cannot be reasonably completed under the
52 methods authorized by G.S. 143-128, the superintendent shall so inform the board and
53 make the recommendation to the board that it approve the use of alternative methods.
54 Upon board approval, the superintendent shall submit to the State Building Commission a
55 request to use an alternative contracting method along with supporting documentation.
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57 **C. FORMAL BIDDING**
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59 Construction and repair work requiring the estimated expenditure of \$500,000 or more
60 will be advertised for bid and will be awarded through formal bidding procedures.
61 Dividing contracts to lower the expenditure amounts so as to evade these requirements is
62 prohibited. The board authorizes the use of newspaper advertisement, electronic
63 advertisement, or both for formal bids; however, the superintendent has the authority to
64 determine which method will be used for a specific purchase or categories of purchases.
65 The superintendent shall establish formal bidding procedures consistent with this policy
66 and applicable law and make the procedures available to all bidders or potential bidders.
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68 **D. INFORMAL BIDDING**
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70 Informal bids will be obtained for construction and repair contracts between \$30,000 and
71 \$500,000. Quotations from contractors may be solicited by telephone or in writing.
72 Informal bids are recommended, but not required, for construction and repair work
73 costing less than \$30,000.
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75 Dividing contracts to lower the expenditure amounts so as to evade the informal bidding
76 requirements is prohibited. The superintendent shall develop informal bidding
77 procedures consistent with this policy and applicable law and make the procedures
78 available to all bidders and potential bidders.
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80 **E. APPROVAL**
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82 All formally bid construction contracts must be reviewed by the board attorney. The
83 superintendent shall consult with the board attorney in developing standard form
84 contracts for informally bid construction projects.
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86 Any construction or repair contract involving expenditures in excess of \$90,000 must be
87 reviewed by the board attorney and approved in advance by the board unless provided
88 otherwise in board policy. Unless otherwise prohibited by statute or regulation, the

89 superintendent or designee is authorized to enter into construction or repair contracts
90 involving amounts up to \$90,000. Change orders for construction and repair contracts
91 will be subject to the requirements of policy 9030, Facility Construction, not this
92 provision.

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94 **F. RECORDS AND REPORTING REQUIREMENTS**

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96 Records of all informal or formal bids received will be maintained and will be available
97 for public inspection. Such records should include the date the bid is received, from
98 whom it is received, and what project it is for. The records will document why the
99 selected contractor was the lowest responsive, responsible bidder if the contractor was
100 not the low bidder.

101

102 The superintendent must submit required reports to the State and provide reports to the
103 board on the progress being made towards reaching the board's goals.

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105 **G. DISPUTE RESOLUTION PROCESS**

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107 The board establishes the following dispute resolution process to resolve issues arising
108 out of construction and repair projects or contracts related to such projects. The dispute
109 resolution process may be used by any party involved in the construction project for those
110 disputes in which the amount in controversy is at least \$15,000.

111

112 Prior to initiating litigation concerning a dispute, parties to the dispute must do the
113 following: (1) submit the dispute for review by the superintendent or other designated
114 school official and the project architect, as appropriate, and (2) participate in mediation, if
115 the matter cannot be resolved by school officials and the architect. The cost of the
116 dispute resolution process will be divided between the parties to the dispute. If the board
117 is a party to the dispute, the board will pay at least one-third of the cost.

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119 Legal References: **2 C.F.R. 200.317-200.326**; G.S. 64 art. 2; 115C-521, -522; 143-64.31 and art.
120 8; 147 art. 6E, art. 6G

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122 Cross References: Contracts with the Board (policy 6420), **Federal Grant Administration (policy**
123 **8305)**, Facility Construction (policy 9030), Prequalification of Bidders for Construction Projects
124 (policy 9115), Participation by Minority Businesses (policy 9125)

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126 Adopted: June 20, 2016

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128 Revised: September 19, 2016; March 5, 2018; **[DATE]**