

All purchases of supplies, material, and equipment will be made in accordance with applicable laws and regulations, including Chapter 143 Article 8 of the North Carolina General Statutes, Board policy, and any school district purchasing procedures. All employees involved in purchasing are expected to be familiar with these requirements.

The Director of Business Services will ensure that written specifications for desired products are descriptive, clear and incorporate the quality requirements and service needs of Transylvania County Schools. There is no minimum number of bids, proposals or quotes required for the purchase of supplies, material, and equipment (whether formally or informally bid); however, the Board encourages the Director of Business Services to obtain at least two bids, proposals or quotes when feasible.

Except as otherwise required by law or specified by the Board, the Board delegates to the superintendent the authority to award contracts for the purchase of equipment, material and supplies involving amounts up to \$90,000. The Board must approve any purchases or contracts involving expenditures greater than this amount. The Director of Business Services will review submissions of bids, proposals or quotes to determine if they are responsive to the district's specifications, and will make recommendations to the superintendent. The superintendent will award the contract based upon such recommendations or will make a recommendation to the Board for award of the contract by the Board.

The Board will not enter into a contract with any supplier or contractor when performance on any previous contract has been found to be unsatisfactory by the superintendent or the Board. A Vendor Complaint Form may be filed with the Director of Business Services when performance on a contract is found to be unsatisfactory. The Director of Business Services may then at his discretion remove a vendor from the approved vendor list based on the complaint and the vendor's response.

Supplies, material, and equipment must be purchased in accordance with the following requirements. Consideration should be given to making purchases within Transylvania County when goods are of equal quality and comparable price.

A. FORMAL BIDS (\$90,000 OR MORE)

The purchase of supplies, materials or equipment for expenditures of \$90,000 or more must be secured through the competitive bid process governed by G.S. 143-129. The superintendent, in consultation with the Director of Business Services, is authorized to use any of the following methods to satisfy formal bid requirements.

1. *Competitive Sealed Bids* – A competitive sealed bid (or invitation to bid) may be used to request the cost of particular goods by providing detailed specifications in advance.

2. *Reverse Auction* - Pursuant to G.S. 143-129.9(a)(1), Transylvania County Schools may use reverse auctions as an alternative to sealed bid procedures. For purposes of this policy, reverse auction means a real-time purchasing process in which bidders compete to provide goods at the lowest selling price in an open and interactive environment. The superintendent, in consultation with the Director of Business Services, will determine whether reverse auctions are appropriate for a specific purchase or category of purchases. To conduct a reverse auction, the purchase officer may use a third party, the state's electronic procurement system, or, if appropriate equipment is available, may conduct the auction via school district equipment.
3. *Exceptions to Formal Bids* – Any of the processes outlined below in Section E can be used in lieu of formal bidding, as long as all requirements of state law are met.

The Director of Business Services shall direct the bid process and will ensure that all state requirements are met, including advertisement, sealed bids, maintenance of records, and public opening of bids. The Board authorizes and highly encourages the use of multiple media sources for formal and informal bids; however, the superintendent has the authority to determine which method will be used for a specific purchase or categories of purchases. Awards will be made to the lowest responsible bidder(s) whose bid/proposal meets the requirements and criteria set forth by Transylvania County Schools, taking into consideration quality, performance and the time specified in the proposal for the performance of the contract. All contracts awarded must be in writing.

B. INFORMAL BIDS (\$5,000 TO \$90,000)

The purchase of supplies, materials or equipment from \$5,000 to \$90,000 must be secured through the informal bidding process governed by G.S. 143-131. The superintendent, in consultation with the Director of Business Services, is authorized to use of any of the following methods for bids and shall ensure that all state requirements are met, including maintaining records of all bids submitted.

1. *Competitive Sealed Bids* – Informal bid requirements may be met by the use of sealed bids. The Director of Business Services may utilize the methods for formal competitive bids provided in Section A or may determine other appropriate methods for soliciting sealed bids. The bid specifications will include the time, date and place for opening bids. No advertisement for bids is necessary; however, the Director of Business Services may advertise for bids, as he/she deems appropriate.

2. *Quotations* – Informal bid requirements may be met by the solicitation of quotes from prospective vendors. Quotations may be solicited and submitted via fax, email or telephone. Telephone quotes must be placed in writing before a final contract will be awarded. Written quotations must be on the vendor's letterhead or an official quotation form, and must include an authorized signature.
3. *Reverse Auction* – A reverse auction may be used to solicit informal bids, consistent with the process provided in Section A.2.
4. *Exceptions to Informal Bids* – Any of the processes outlined in Section E can be used in lieu of informal bidding, as long as all requirements of state law are met.

Awards will be made to the lowest responsible bidder(s) whose bid or proposal meets the requirements set forth by Transylvania County Schools, taking into consideration quality, performance and the time specified in the proposal for the performance of the contract.

C. PURCHASES FOR LESS THAN \$5,000

All purchases of supplies, materials, and equipment under \$5,000 shall be made in accordance with applicable laws and regulations, including Chapter 143 Article 8 of the North Carolina General Statutes, board policy and any school district purchasing procedures. Purchase decisions should be made after considering price, quality, suitability for specified need and timeliness of delivery and performance.

There is no minimum number of bids, proposals or quotes required for the purchase of supplies, material, and equipment. However, the Board encourages the Director of Business Services to obtain at least two bids, proposals or quotes when feasible. Term contracts rendered by the NC Division of Purchase and Contract or U.S. Communities may be used to satisfy this condition.

D. ELECTRONIC BIDDING

Pursuant to G.S. 143-129.9(a)(2), Transylvania County Schools may receive bids electronically in addition to or instead of paper bids. If electronic bids are used for purchases that must be formally bid, procedures for receipt of electronic bids must be designed to ensure the security, authenticity and confidentiality of the bids to at least the same extent as provided with paper bids. The superintendent, in consultation with the Director of Business Services, will determine whether electronic bidding is appropriate for a specific purchase or category of purchases.

E. EXCEPTIONS TO THE FORMAL AND INFORMAL BIDDING REQUIREMENTS

Transylvania County Schools may utilize the following purchasing options instead of pursuing competitive bidding. Formal or informal bidding is not required if any of these processes are used. The Director of Business Services is responsible for gathering information to document the basis for the use of any exceptions to the competitive bidding requirements. The superintendent, in consultation with the Director of Business Services, will determine whether using one of the following exceptions is appropriate for a specific purchase or group of purchases.

1. *Purchases from Other Governmental Agencies* – Pursuant to G.S. 143-129(e)(1), Transylvania County Schools may contract for the purchase, lease or other acquisition of apparatus, supplies, materials, or equipment from any other federal, state or local governmental agency.
2. *Special Emergencies* – Pursuant to G.S. 143-129(e)(2), competitive bidding is not required in cases of special emergencies involving the health and safety of people or their property. For an emergency to exist under the statute, the following factors must exist: (1) the emergency must be present, immediate and existing; (2) the harm cannot be averted through temporary measures; and (3) the emergency must not be self-created by Transylvania County Schools.
3. *Competitive Group Purchasing* – Pursuant to G.S. 143-129(e)(3), Transylvania County Schools may make purchases through a competitive bidding group purchasing program, through which another entity uses a competitive process to establish contracts on behalf of multiple entities at discount prices.
4. *State Term Contract* – Pursuant to G.S. 143-129(e)(9), Transylvania County Schools may purchase products included in state term contracts with the state vendor for the price stipulated in the state contract, if the vendor is willing to extend Transylvania County Schools the same or more favorable prices, terms and conditions as established in the state contract.
5. *Sole Source Items* – Pursuant to G.S. 143-129(e)(6), upon approval of the Board of Education, Transylvania County Schools may purchase an item through a single/sole source contract under the following circumstances: (1) when performance or price competition is not available; (2) when a needed product is available from only one source of supply; or (3) when standardization or compatibility is the overriding consideration. When requesting a purchase under the sole source exception, the Director of Business Services will provide the board with documentation that justifies the use of the exception.

6. *“Piggybacking” or Previously Bid Contracts* – Pursuant to G.S. 143-129(g), upon approval of the Board of Education, Transylvania County Schools may purchase from any supplier that, within the previous 12 months, has contracted to furnish the needed item to the federal government, to any state government, or to any agency or political subdivision of the federal government or any state government. Before recommending a purchase using the piggybacking exception, the Director of Business Services will ensure that the following requirements are met: (1) the price and other terms and conditions of the contract are at least as favorable as the prior contract; (2) the contract was entered into following a public, formal bid process substantially similar to that required by North Carolina General Statutes; (3) the same vendor is used; and (4) notice of intent to award the contract without bidding is publicly advertised at least 10 days prior to the regularly scheduled board meeting at which the contract will be approved. Before approving the contract, the Board must determine that using the contract is in the best interest of Transylvania County Schools.
7. *Purchases of Information Technology Goods and Services* – Pursuant to G.S. 143-129(e)(7), Transylvania County Schools may purchase or lease information technology through contracts established by the State Office of Information Technology Services. The Director of Business Services will work with the technology department to ensure that any such purchases meet the needs of Transylvania County Schools.

In addition, Transylvania County Schools also may purchase information technology goods and services by using a request for proposal (RFP) pursuant to G.S. 143-129.8, provided that the following requirements are met: (1) notice of the request is provided consistent with the formal bidding notice requirements, and (2) contracts are awarded to the person or entity that submits the best overall proposal as determined by the Director of Business Services and superintendent. The RFP should describe the scope of work, general terms and conditions, specifications of the product needed by Transylvania County Schools, and the application process. The information technology supervisor will assist the Director of Business Services in reviewing the responsiveness of any RFP submitted pursuant to this subsection. RFPs will be evaluated using the “best value” method as defined in G.S. 143-135.9(a)(1), so that the district can select the most appropriate technological solution to meet objectives. However, in situations where the Director of Business Services considers the purchase to be highly complex or is unable to clearly determine what the optimal solution for Transylvania County Schools is, the “solution-based solicitation” or “government-vendor partnership” method may be used. The Director of Business Services may negotiate with the bidder to obtain a final contract that meets the best needs of Transylvania County Schools, as long as the alterations based on

such negotiations do not deprive bidders/potential bidders of the opportunity to compete for the contract and do not result in the award of the contract to a different person or entity than it would have been if the alterations had been included in the RFP.

8. *Gasoline, Fuel and Oil Purchases* – Pursuant to G.S. 143-129(e)(5), Transylvania County Schools may purchase gasoline, fuel and oil products without using formal competitive bidding. However, such purchases are subject to the informal bidding requirements provided above.
9. *Used Products* – Pursuant to G.S. 143-129(e)(10), Transylvania County Schools may purchase previously used supplies, materials, and equipment without using formal competitive bidding. Before purchasing used products, the Director of Business Services will ensure that the products are in good, usable condition and will be sufficient to meet the needs of Transylvania County Schools for a reasonable period of time.
10. *School Funded Capital Projects* – The purchase and/or development of capital projects (ex.- construction, remodeling, landscaping, etc.) with an estimated value of \$10,000 or more (including the value of donation of materials and volunteer labor) and funded by individual school funds (including boosters, alumni, and other supporting organizations) must receive prior approval of the Superintendent and the Board of Education prior to entering into any contracts or agreements with any vendor, contractor, or volunteer. All of the thresholds and bidding requirements set forth in this policy/procedure shall apply to school requests for construction, repair or renovation to any school building, facility, grounds, or athletic field.

F. E-PROCUREMENT REQUIREMENTS

As required by law, Transylvania County Schools will use the North Carolina Electronic Procurement (“e-procurement”) system to facilitate the electronic purchase of goods and services. School district personnel will comply with standards established by the State Board of Education so that Transylvania County Schools can become e-procurement compliant. As of the date that Transylvania County Schools is certified by the Department of Public Instruction to be e-procurement compliant, the Director of Business Services shall ensure that purchases of supplies, materials, and equipment through the e-procurement system total at least 30 percent of remaining unencumbered funds for that fiscal year. Purchases the following year must total at least 35 percent of budgeted funds, and 40 percent of budgeted funds in the year thereafter.

G. LEASE PURCHASE CONTRACTS AND OTHER CONTRACTS FINANCED OVER TIME

Lease purchase contracts, contracts that include options to purchase, and leases for the life of equipment all must be bid consistent with the requirements of G.S. 143-129 and 143-131. The Director of Business Services will ensure that such contracts meet the legal requirements and the provisions of this policy.

H. USE OF SCHOOL DISTRICT TERM CONTRACTS

Transylvania County Schools may create and use term contracts for items that are routinely purchased by Transylvania County Schools. If the estimated expenditure for a routine item under the term contract exceeds \$90,000, the contract must be formally bid. If the estimated expenditure is between \$5,000 and \$90,000, the contract must be informally bid. The Director of Business Services may incorporate the use of a term contract in the bidding specifications. If term contracts are used, the contracts will be created and/or reviewed by the board attorney, in consultation with the Director of Business Services.

I. HISTORICALLY UNDERUTILIZED BUSINESSES

The Board affirms the state's commitment to encourage the purchase of supplies, materials, and equipment from historically underutilized businesses. The Board will comply with all legal requirements and the standards in Board Policy DJCA, Contracting and Purchasing Procedures.

RESOURCES:

N.C. General Statutes
Chapter 143 Article 8

N.C. Division of Purchase and Contract
1305 Mail Service Center
Raleigh, NC 27699-1305
<http://www.doa.state.nc.us/PandC/>

U.S. Communities
2175 N. California Blvd.
Suite 550
Walnut Creek, CA 94596
1-866-472-7467
<http://www.uscommunities.org/>

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AND EFFECTIVE 11/6/79
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