

MANUAL OF PROCEDURES

PSAB SUPPLEMENT 13

PURCHASING

TABLE OF CONTENTS

PURCHASING FOR PUBLIC SCHOOL DISTRICTS AND CHARTER SCHOOLS.....	1
PURPOSE	1
NEW MEXICO PROCUREMENT CODE	1
APPLICATION OF THE CODE.....	1
LOCAL POLICIES	1
DIVISION OF DUTIES	2
APPROVALS	2
GENERAL CONTROLS	2
CENTRAL PURCHASING OFFICE	4
CENTRALIZED PURCHASING	4
DECENTRALIZED PURCHASING.....	4
PURCHASING CYCLE.....	4
PURCHASING PROCESS	6
INFORMAL	6
FORMAL	6
TYPES OF PROCUREMENTS	6
BASIC STEPS FOR PURCHASING	6
BASIC STEPS FOR OBTAINING PROFESSIONAL SERVICES:.....	7
EVALUATION CRITERIA	8
<i>Emergency Procurement - Section 13-1-127. NMSA 1978.....</i>	<i>9</i>
<i>Sole Source Procurement – Section 13-1-126. NMSA 1978</i>	<i>9</i>
OTHER TYPES OF PURCHASING	10
<i>Price Agreements – Section 13-1-71. NMSA 1978.....</i>	<i>10</i>
<i>Use of Other Government Contracts.....</i>	<i>10</i>
<i>Cooperative Purchasing Contracts.....</i>	<i>11</i>
PURCHASING THROUGH REGIONAL EDUCATION COOPERATIVES.....	11
<i>Section 22-2B-3. NMSA 1978</i>	<i>11</i>
JOINT POWERS AGREEMENTS	13
LEASE PURCHASING.....	14

NON-COMPETITIVE PROCUREMENTS	14
<i>Procurement Code Exemptions</i>	<i>14</i>
PUBLIC NOTICE	16
PURCHASING PROCESS FLOWCHART	17
RECEIVING PROCESS	19
<i>Steps In The Receiving Process.....</i>	<i>19</i>
PAYMENT PROCESS	19
<i>Steps To Process Payments</i>	<i>20</i>
UNLAWFUL EMPLOYEE PARTICIPATION	20
ETHICAL STANDARDS RELATED TO PROCUREMENT	20
PENALTIES IN THE PROCUREMENT CODE	21
RISK ASSESSMENT TO ANALYZE PRACTICES AND PROCEDURES	22
MODEL PURCHASING POLICY.....	23
LOCAL PURCHASING PROCEDURES	23
PSAB SUPPLEMENT 13 - PURCHASING	23
ABC PUBLIC SCHOOLS BOARD POLICY – DISTRICT CODE 6.17	23
DISTRICT PROCEDURES - PURCHASING GUIDELINES	24
STEPS FOR REQUESTING A PURCHASE ORDER	24
STEPS FOR RECEIVING THE PURCHASE	25
INPUT STANDARDS/PROCEDURES FOR ALL PURCHASE REQUISITIONS.....	26
PURCHASE ORDER TYPES	26
<i>Catalog and Out of Town Orders</i>	<i>26</i>
<i>Non-Specific Authorized Purchases.....</i>	<i>26</i>
<i>District Internal Service Charges:</i>	<i>27</i>
PURCHASE ORDER INFORMATION	27
<i>Fixed Costs/Open Purchase Orders:.....</i>	<i>27</i>
<i>Voiding a Document.....</i>	<i>28</i>
<i>Changes to Purchase Orders</i>	<i>28</i>
KEY WORDS INDEX	I
TABLE OF AUTHORITIES	III
NEW MEXICO PROCUREMENT CODE.....	IV
SAMPLE PURCHASE ORDER	V
REQUEST FOR EMERGENCY PROCUREMENT	VI

MANUAL OF PROCEDURES

PSAB SUPPLEMENT 13

PURCHASING

PURCHASING FOR PUBLIC SCHOOL DISTRICTS AND CHARTER SCHOOLS

PURPOSE

The purpose of the New Mexico Procurement Code and local school district or charter school related administrative procedures is to ensure public procurement more effective and provide for fair and equal treatment. School Districts and Charter Schools shall obtain the best value when spending public funds and shall provide strict accountability to all stakeholders. The Procurement Code pertains to every purchase not specifically excluded. Following the Procurement Code and establishing local administrative procedures shall provide safeguards to maintain a system of quality, integrity and ethical behavior in the process.

NEW MEXICO PROCUREMENT CODE

The objective of this set of rules is to have the force and effect of law to implement, interpret or make statute law specific as it applies to the New Mexico Procurement Code, Section 13-1-28 through Section 13-1-199, NMSA 1978 and the purposes stated therein. If any provision of this Rule, or any application thereof, to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Rule.

APPLICATION OF THE CODE

Section 13-1-30 NMSA 1978. Application of the code.

- A. (Unless otherwise exempted) the code shall apply to every expenditure by state agencies or local public bodies.
- B. When procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulation. If those laws are inconsistent with the Procurement Code, compliance with federal law or regulations shall be deemed compliant with the Procurement Code.

LOCAL POLICIES

Each school district shall have a purchasing policy adopted through action by its local board of education or governing council to ensure that the purchase of tangible goods,

services, and construction by the school district shall be conducted in adherence to the stipulations of the Procurement Code. The policy shall identify and establish a central purchasing office responsible for administering procurement as stipulated in the Procurement Code. The policy shall mandate that the central purchasing office or officer be responsible for ensuring fair and equal treatment of all persons involved in the procurement of the school district's tangible goods, services and construction, or maximizing the purchasing value of the school district's or charter school's funds. See model policy in this supplement.

Section 13-1-125. NMSA 1978 Small purchases

For procurements less than statutory thresholds, the central purchasing office shall develop, implement and maintain its own purchasing procedures consistent with the Procurement Code and the policies adopted by the local boards of education or governing councils as applicable. Local procedures shall be reviewed and updated annually by the central purchasing office to meet all changes in statutory and/or regulatory requirements

Local procedures shall demonstrate that appropriate internal controls are in place.

DIVISION OF DUTIES

- Purchasing and receiving functions are separate from invoice processing, accounts payable and general ledger functions.
- Disbursement approval is separate from general ledger entry.

APPROVALS

- There is a delegated authority policy which authorizes specific individuals to authorize purchases and requisitions.
- All expenditures are approved in accordance with the district/charter schools' written accounts payable and purchasing policies and procedures.
- A policy and procedure for competitive bidding is in place for purchases over a specified amount.
- Sole Source purchasing is justified by notation on Purchase Orders, Contracts, and Requisitions for purchases over a certain amount.

GENERAL CONTROLS

- Purchases are reviewed and tested for reasonableness of derived benefit. See reference to Department of Finance and Administration White Paper on the Authority and the Propriety of Expenditures issued by the Financial Control Division of the Department of Finance and Administration, Section 6-5-6. NMSA 1978, which is also detailed in PSAB Supplement 1, Budget Planning, Preparation and Maintenance.

- When appropriate staff is encouraged to combine like purchases into an invitation to bid that may result in better overall pricing and because of increased quantities, the potential for long term contract arrangements may be possible.
- Authorized individuals shall examine district records to ensure that sufficient budget authority is available prior to the issuance of any purchase order.
- Purchase orders shall encumber or obligate budget designated for a specific purpose. Financial Management Systems (FMS) shall utilize the encumbrance method of obligating as an element of control. Adjustments or budget transfers to accommodate certain allowable purchases shall be in accordance with rules set forth by the Public Education Department for budgeting and accounting. Reference PSAB Supplement 1, Budget Preparation and Maintenance, and also "Budgetary Controls" detailed in PSAB Supplement 7, Cash Controls.
- Processing takes place after purchase orders are reviewed for completeness.
- Policies will reflect that all purchase orders are dated, priced, signed and coded.
- Purchase orders are issued numbered sequentially.
- All purchase orders and requisitions are reviewed to ensure that account codes that include fund, function and object are used appropriately. See PSAB Supplement 3, Uniform Chart of Accounts.
- Vendor invoices are received and reviewed by the accounting department first.
- The accounting department compares the invoice to the purchase order and receiving documentation.
- Local procedures shall reflect an approval process for all capital projects. A project manager may be designated to review and approve all related purchase orders and requisitions.
- Duplicate copies of invoices are destroyed to prevent duplicate payments.
- Vendor invoices are received at the Business Office.
- School districts and charter schools shall have written procedures for inventory management and control of capital assets.
- One person is not responsible for receiving, disbursement and preparation of transaction documentation.
- There are adequate controls to ensure that an individual cannot initiate a purchase and authorize payment without detection.
- A procedure exists to notify accounting of returned items to ensure proper credit or prevent inaccurate payment.
- Someone periodically reviews and compares signatures on purchasing documents.
- A procedure is in place to review backorders and prevent duplicate purchases.
- If Blanket Purchase Orders are used, proper review procedures are in place to prevent abuse.
- Whenever possible the district or charter school shall determine that check stock is secure and separate from the personnel that have been designated to approve purchases.
- Annually district and charter school personnel review contractual obligations and determine if new requests for proposals or bids should be sought.

- Vendor records that have little or no activity should be reviewed and the file maintained and updated to reflect current activity on the Financial Management System.

CENTRAL PURCHASING OFFICE

Pursuant to Section 13-1-37, NMSA 1978 the “central purchasing office” or officer with in the state agency or a local public body shall be responsible for the control or procurement of items of tangible personal property, services or construction. “Central purchasing office” includes the purchasing division of the general services department (GSD), and the state purchasing agent and shall be responsible for adhering to the Procurement Code stipulations and to this Rule. This responsibility applies to procuring tangible goods, non-professional services, and construction costing \$20,000 or more and professional services costing \$50,000 or more

CENTRALIZED PURCHASING

“**Centralized purchasing**” is a system of purchasing in which authority, responsibility, and control of all purchasing activities are concentrated in one administrative unit.” Purchase requisitions may originate at the school site or department level where a need has been determined. If school districts or charter schools follow the centralized methodology, purchase requisitions are processed at a central location. The centralized purchasing department has the authority to review, approve or reject requests that may be inappropriate or in violation of local, state and or federal requirements.

DECENTRALIZED PURCHASING

Varying degrees of authority, responsibility and authority may be distributed to the school sites or departments by management of the school district or charter school. This is known as “**decentralized purchasing**”.

With “decentralized purchasing” school sites and departments may have the authority to issue purchase orders. Staff must be thoroughly trained to utilize a comprehensive process to assure that purchasing procedures are followed and to avoid inappropriate or unethical purchasing. Violations of local board policies, state and federal law may result if proper review and approvals are not in place.

School districts and charter schools may carry out the purchasing process by utilizing a combination of both systems.

PURCHASING CYCLE

An effective purchasing system requires several key components for the cycle to operate efficiently and economically.

Planning and Coordination - Timing of key activities such as bids/proposals, coordination of purchasing activities and functions

Infrastructure Development - Development of policies and procedures, implementation of processes to support the policies and procedures, on-going training for purchasing staff and users

User responsiveness - Successful purchasing processes ensure that a user perspective is incorporated and communication lines are open.

Consistent Compliance - With laws, regulations, policies and ethical standards

Well Trained Staff - One of the most important of the key components is a good purchasing organization with a well-trained staff. Management should consistently provide professional development opportunities and related training to ensure that a thorough knowledge of purchasing requirements exists and are being followed.

An organization's purchasing procedures will vary from district to district and charter school to charter school depending on the local procedures established by Boards of Education and Governance Councils. Although basic processes are similar, daily operations and the structure of a purchasing program depends on various factors, one of which is the size of the district. In smaller districts, administrators and support staff "wear many hats" and may be responsible for purchasing and other major functional areas. In larger districts, more personnel may allow for more specialized and specific responsibilities. Sound business practices, internal controls, and adherence to rules and regulations *should not* vary from district to district. Every component in the purchasing process is critically important to achieve fairness, transparency, integrity, and equity both to the purchaser and to the vendor or contractor.

Section 13-1-77 NMSA 1978. "Purchase order" means the document issued by the state purchasing agent or a central purchasing office that directs a contractor to deliver items of tangible personal property, services, or construction.

All purchase transactions are executed through issuance of duly authorized school district **purchase orders or purchase requisitions**. Purchase orders shall become part of other contract documents that may be transacted (i.e., construction contracts, architectural service agreements, legal service agreements, etc.).

The preparation and execution of a duly authorized purchase order must precede the placement of any order for goods, services or construction.

Any person who purposefully places an order for goods, services or construction without a duly authorized purchase order may be held personally liable for payment of delivered items and may be subject to the penalty stipulations of the Procurement Code. The procedures detailed herein provide guidelines for ensuring that purchase transactions are appropriate, valid and legally binding upon school districts.

In general, fulfilling the needs of any school district or charter school through the purchase of tangible goods, services, or construction, herein referred to as the **purchasing cycle**, can be conducted through the implementation of three basic processes: **1) the Purchasing Process; 2) the Receiving Process, and 3) the Payment Process.**

PURCHASING PROCESS

Prior to issuance of a purchase order, an *informal, formal bid or proposal solicitation process* as required by either the Procurement Code or by procedures adopted by the school district's or charter school's Board of Education or Governing Council, must be conducted.

INFORMAL

Procedures shall be developed and implemented by a central purchasing officer for procurements whose costs do not exceed:

\$20,000.00 (excluding taxes) - for tangible goods, non-professional services and construction, or \$50,000 (excluding taxes) for professional services.

FORMAL

Procedures shall be followed pursuant to the Procurement Code for procurements costing:

\$20,001.00 (excluding taxes) or more - for tangible goods, non-professional services, or construction, or, \$50,001.00 (excluding taxes) or more - for professional services.

TYPES OF PROCUREMENTS

- ❖ **Competitive “invitation to bid” for goods services and construction, Sections 13-1-102 through 13-1-125, 13-1-110 NMSA 1978.**

When the estimated dollar amount of the purchase request exceeds the limits for a small purchase per local board/council policy for small purchases, this method is utilized. The invitation to bid includes specifications including quantities, timelines, terms, and conditions such as expected performance, and insurance requirements. The invitation for bids shall be published in a local newspaper at least one time. Interested vendors may then view newspapers or the internet for information.

BASIC STEPS FOR PURCHASING tangible goods, non-professional services, and construction:

- A need is determined or assessed;
- Minimum requirements or specifications that satisfy the need are defined;

- The marketplace is searched for goods, services, or construction that meet the minimum requirements or specifications;
- A purchase contract is established with a vendor offering goods, service or construction at the lowest cost and meets the minimum requirements or specifications.

❖ Competitive sealed “request for proposals” for professional Services, maintenance, repairs and construction, Sections 13-1-125, 13-1-111 through 13-1-117.NMSA 1978.

The Request for Proposal, (RFP), is used when the *best or lowest price is not the only consideration of award*. Several factors to determine this type of purchasing may be vendor qualifications, ability to perform the work, company history, references or remoteness of the district or charter school from the supplier/vendor. These factors need evaluation through a method of scoring that is communicated in the RFP. The difference between an Invitation to Bid and a Request for Proposal is that the price, terms, and conditions are negotiable.

BASIC STEPS FOR OBTAINING PROFESSIONAL SERVICES:

- A need for professional service is determined.
- It is determined that bidding is impractical for the service or product sought.
- A scope of work or a description of intended product use is developed that describes the current need, the conditions affecting the need, and the minimum expected outcomes resulting from services or products being sought.
- Proposals are sought for professional services or products. Information provided in the request for proposals includes the scope of work or product usage description and weighted criteria that will be used for evaluating the proposal responses.
- Proposal responses are received and evaluated and may be negotiated if necessary or desired.
- Proposals are ranked based upon the sum of the weighted criteria.
- Award to the highest ranked proposal is issued and a service or purchase contract is established for obtaining the needed services or products.

❖ Request for Proposals for “qualified professional services” for architects, engineers, landscape architects and surveyors, Sections 13-1-119 through 13-1-124 NMSA 1978.

Once the district has determined that the services of a design professional are needed, a different RFP process is used that does not include the price of the work. When the award contract is awarded, then the price becomes a negotiated item. If negotiations are not successful with the first offeror, then negotiations may begin with the second ranked offeror. Ability or qualifications to meet district specifications are the factors used to make the award decision.

**❖ Direct or small purchases of goods, services and construction -
Dependent on the limits set in the New Mexico Procurement Code –
Section 13-1-125. NMSA 1978.**

A small purchase of *goods, services, or construction* is any single purchase that is estimated to be \$20,000 or less, exclusive of gross receipts tax. A small purchase of professional services is any single purchase that is estimated to be less than \$50,000, exclusive of gross receipts tax. This type of purchase is considered a “direct purchase” and does not require a formal solicitation or invitation to bid or an RFP as described above. A district or charter school must follow the limits set by the Board of Education of Governing Council for limits less than the statutory thresholds.

Section 13-1-125 NMSA 1978 has set a limit for a small purchase that does not require districts to obtain three quotes to determine the best price. Purchase orders may be issued for the amounts up to the limits set by the Board or Council. For purchases estimated to be more than \$20,000, three written quotes must be sought. The purchase order is then issued to the vendor that has offered the lowest price per district or charter school specifications.

Professional services which can be obtained informally generally do not require quotes because of the nature of the purchase including qualifications, abilities, and company history to perform the work. Either verbal or written communication with known firms or individuals is typical. Contracts define the scope of services and payment terms and conditions along with a timeframe for the work to be performed.

Information needed by competing firms or individuals includes, but is not limited to:

**Purchase
Amount
Less than
\$50,000**

- Data describing the size of project (i.e., number of students and/or staff to be affected, buildings to be surveyed, funds to be audited, report requirements, etc.);
- The nature and preferred level of service expected by the school district and desired outcomes or goals;
- Timeframe(s);
- Contract terms and conditions;
- School district or charter school contact person(s) from whom any additional information may be obtained regarding the project scope;
- Date, time and place where proposals are to be received;
- Proposal evaluation procedure and award determination criteria.

EVALUATION CRITERIA

The criteria for evaluating the proposal may include, but is not limited to, qualifications, experience and capabilities, performance history as described from other client references, level of services offered, cost of services, etc. Each criterion should be weighted according to the importance as determined by the project coordinator or other authorized person who will be evaluating proposals and receiving the services.

Proposals must include information that addresses the criteria. Incomplete proposals are not responsive and cannot be considered for award. Negotiations may be conducted to obtain better terms and conditions from any or all firms whose proposals meet the criteria. Proposals are evaluated according to the weighted criteria and ranked according to their relative merit. Upon verifying that funds are available for the finalized cost of the needed service, a contract may be awarded via purchase order to the firm or individual whose proposal received the highest ranking.

Over \$50,000

The same process is followed as in obtaining professional services under \$50,000 except that the process is formalized by *publishing legal notice* as stipulated in the Procurement Code. Proposals are solicited from all firms and individuals who have submitted a written request to the central purchasing office. Pending funding availability, award to the highest ranking respondent is issued via duly authorized purchase order.

Section 13-1-125 (D.). Small Purchases. It is against the law to artificially divide (split) purchases to create two (2) or more orders of lower cost in order to circumvent the limits of the Procurement Code.

❖ **Emergency Procurement - Section 13-1-127. NMSA 1978**

Central purchasing offices are advised to be thoroughly familiar with and adhere to the stipulations within the Procurement Code that pertains to emergency procurements. Pursuant to this section of the Procurement Code, there must be a serious and immediate need for tangible goods, services, or construction. This rule is utilized to protect the public under conditions that cannot be met through normal procurement methods and that pose a threat to:

- The functioning of schools, school districts and charter schools;
- The health or safety of any person, or,
- The preservation or protection of school district or charter school property.

Competitive solicitations and/or negotiation may be attempted as is practicable. These procurements must be fully explained in a written determination from the central purchasing office and kept in the procurement records for three years. To address a potential audit finding, included within the determination there should be a statement addressing the necessity for placing an emergency order for goods, services, or construction prior to issuing a duly authorized purchase order. Often a real emergency does not exist; rather the situation happens due to the lack of planning. Purchasing offices should exercise caution when using this type of purchase. See exhibit in this supplement that may be attached to the purchase documents for an emergency purchase.

Sole Source Procurement – Section 13-1-126. NMSA 1978

A contract may be awarded without competitive sealed bids or competitive sealed proposals regardless of the estimated cost after a good faith review of available sources along with consultation from the end users is conducted prior to purchasing under a non-competitive, sole source condition. *The determination is made that one, and only one, manufacturer or vendor can meet the requirements or specifications. A written determination* declaring a sole source by the central purchasing office must be filed within the procurement records for three years. Information that details the review process and selection criteria is recommended to be included within the determination document to minimize abuse of this type of procurement. Negotiation may be conducted with the sole provider to obtain pricing that is most advantageous to the school district. A contract for the purchase of research consultant services by institutions of higher learning constitutes sole source procurement.

OTHER TYPES OF PURCHASING

Price Agreements – Section 13-1-71. NMSA 1978.

The Procurement Code, Section 13-1-71 NMSA 1978, allows for *Price Agreements* which constitute a definite quantity contract or indefinite quantity contract and requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body. The purchase order must be within the limitations of the existing contract.

Use of Other Government Contracts (Including General Services Administration (GSA) - Section 13-1-129. NMSA 1978).

Procurement is allowed utilizing existing contracts, of all governmental entities, including school districts and charter schools. Often termed “piggybacking” other government contracts for goods, services, or construction can be used if certain criteria is met. Typically a district or charter school may seek other agency contracts that may meet their specifications thus shortening the purchasing cycle. It eliminates the need to prepare specifications, advertise, evaluate and award a contract. Contracts resulting from such procurements may, under certain conditions, serve as a vehicle for purchasing without competitive solicitations. The conditions for purchasing under these contracts are:

- If the existing contract is a federal supply contract through the General Services Agency, (GSA), a letter from the contract holder must be obtained and kept in file by the central purchasing office. The letter must extend pricing to the school district or charter school that is equal to or less than the federal supply contract price. Along with the letter, the central purchasing office must obtain and file a copy of the federal supply contract. The purchase order issued must be issued to the contract holder and must contain a reference to the federal contract relied upon.

- If the existing contract is a state or local government contract, the contract must still be in effect. The provisions within the existing contract must still be enforceable. The limitations of the existing contract must not have been satisfied, expired or extinguished. The existing contract must incorporate sufficient scope and/or capacity to satisfy the need of the purchase order to be issued. The item, service, or construction being purchased must meet the same standards and specifications as the in the existing contract. A copy of the existing contract must be obtained and filed by the central purchasing office prior to issuance of a purchase order. The purchase order must be issued to the contract holder and must contain a reference to existing contract relied upon.
- Certain vendors that hold GSA contracts may have requests from a number of agencies to use their contract. In these cases, the State Purchasing Division (SPD) may request a letter from the vendor that extends their pricing, terms, and conditions for state-wide use. State purchasing will assign a contract number that should be used as a reference on purchase orders for the goods or services.. A copy of these contracts should be filed with the purchase documents.

Cooperative Purchasing Contracts Section 13-1-135. NMSA 1978.

School districts and charter schools may participate in a cooperative procurement agreement for the purchase of goods, services, or construction with any other district or state government entity. School districts and charter schools state-wide can pool their needs which would thereby increase the volume of purchases and that would generally yield better overall pricing and long term contracts. As with piggybacking, this method of purchasing lessens the need for advertising, development of specifications, and the time and effort to process bids or proposals. Cooperative Educational Services (CES) provides this type of service to districts in New Mexico and secure bids on behalf of the districts or charter school. Districts may also communicate their needs to CES to secure bids on their behalf for selected vendors that can offer desired goods or service. *It is recommended that districts and charter schools pay particular attention to the pricing of the goods or service offered through cooperative agreements as selected items may not always reflect the best pricing opportunities.*

PURCHASING THROUGH REGIONAL EDUCATION COOPERATIVES

Section 22-2B-3. NMSA 1978. Regional Education Cooperatives authorized.

The purchase of goods or services is often made available through the use of Regional Education Cooperatives. Local school boards may join with other school districts and/or other state supported institutions to form cooperatives to provide education related services. Some cooperatives design services based on a scope of work particularly suited to each district and that will support individual district's goals that are aligned with their Educational Plan for Student Success. Typical services may include but are not limited to:

- The purchase of goods or services may be made available through the use of a Regional Education Cooperative (REC). Local school districts may join with other school districts and/or other state supported institutions to form cooperatives to provide education related services. By statute, RECs are governed by a Coordinating Council comprised of the Superintendents of the member school districts. Cooperatives design services based on a scope of work particularly suited to each district and that will support individual districts' goals that are aligned with their Educational Plan for Student Success.
- An REC provides cooperative education services on behalf of member school districts, families and communities. The services available to member districts may include, but are not limited to: grants management, grants administration, educational services/supports, career and technical education, information technology, distance learning, Head Start, Child Find activities, early identification and intervention services for children, support for preschool and school age students with special needs, transition services, school based health services, vocational rehabilitation counseling, consultation regarding compliance with state and federal regulations, professional development, Medicaid School Based Services administration, cooperative purchasing, and other services as directed by their Coordinating Council.
- *Related Services*– the Regional Education Cooperative (REC) may advertise a Request for Proposals to procure supportive services on behalf of one or more school districts. Requested services may include physical therapists, occupational therapists, speech/language pathologists, social workers, school nurses, educational diagnosticians, or school psychologists based on a prescribed need and expressed by the member districts. These specialized services may be difficult for school to procure individually because of the location of the schools, number of students that need services, pricing, availability of specialists to perform the service, etc. *This type of procurement may be desirable for more efficient and economical use of taxpayer dollars.*
- *Access to Student Health Care* – An REC may support physical and behavioral health for students through the provision of health and wellness education, substance abuse intervention programs, behavioral health coordination, supervision of school based health clinics, safe schools planning, emergency management training, or other health and safety programs as determined by the Coordinating Council.
- *Technology Services* – member districts may express the need for computer programmers or computer technicians. The cooperative may employ the staff to address the members of the consortium on a predetermined schedule. Broad-based technology services may also include file server and network support, staff training to support member district reporting requirements, e-rate applications, STARS data submission support, and the development and coordination of systems to support online learning or other forms of distance education, or the

development of products and services to support LEA administration with data-based decision-making and quality improvement plans.

- *Professional Development Opportunities* – REC's often provide services such as FERPA training, reporting suspected abuse and neglect, and other Federal and State training mandated for all personnel. This may include training related to the Public Education Department's Performance Standards.
- An REC may also provide student teacher supervision, support for three-tiered teacher licensure and dossier development, training of Student Assistance Teams, and targeted educational strategies in areas such as literacy, numeracy, Response to Intervention, school board training, principal mentoring and classroom management.

JOINT POWERS AGREEMENTS Sections 11-1-1 through 11-1-7. NMSA 1978

Formal approval to enter into a joint powers agreement is set forth in Section 11-1-3. NMSA 1978. The approval of the Secretary of Finance and Administration is required. School districts or charter schools may enter into an agreement with another governmental entity for purposes set forth in the Joint Powers Act. These agreements are initiated to establish a formal process whereby goods and/or services can be exchanged following the terms set forth in the agreement. Every agreement executed by one or more public agencies shall clearly specify the purpose of the agreement and the manner by which any power will be exercised. The parties to the agreement may provide:

- ❑ contributions from the funds of the public agencies may be made for the purposes of the agreement;
- ❑ payments of public funds may be made to defray costs of the agreement;
- ❑ advances of public funds of the public agencies may be made for the purpose in the agreement and the advances must be repaid as per agreement;
- ❑ the funds be paid to and disbursed by the agency agreed upon by the public agencies under the terms of agreement;
- ❑ the agreement may be continued for a definite term or until terminated, and provide for the method which it may be terminated by any party;
- ❑ If the purpose of the agreement is acquisition, construction, or operation of a revenue generating facility, the agreement may provide:
 - repayment or return to the parties all or part of contributions, payments, or advancements made by the parties pursuant to the agreement;

- payment to the parties of any amount derived from the revenues of the facilities.

The Joint Powers Agreement must provide for the following:

- strict accountability of receipts and disbursements;
- the disposition, division, or distribution of any property acquired as the result of the joint powers of agreement. Any surplus money shall be returned in proportion to the contributions made; and
- payments, repayments, or returns to a public agency must be made at the time and in the manner in which the agreement states.

LEASE PURCHASING

Under certain conditions lease purchase agreements may be entered into. It must be noted that certain restrictions apply and specific accounting standards must be followed. Reference 2.2.2.10.R. NMAC. Lease Purchase Agreements.

❖ **Section 6-15A-4 NMSA 1978. Notice of proposed lease-purchase arrangements.**

When a school district contemplates entering into a lease-purchase arrangement payable in whole or in part from ad valorem taxes, the local school board, before initiating any proceedings for approval of such lease-purchase arrangement, shall forward to the School Budget and Finance Analysis Bureau of the Public Education Department, a written notice of the proposed lease-purchase arrangement.

NON-COMPETITIVE PROCUREMENTS

Procurement Code Exemptions

One of the steps in the **flowchart** allows for procurements to be made without competitive bid or proposal solicitations and needs special explanation. The Procurement Code allows certain non-competitive procurements to address those needs of school districts that, by their nature, are not practical to obtain under competitive conditions, are not subject to competitive markets, or have already undergone previous competitive solicitations. Schools are encouraged to seek the best pricing regardless of whether the goods or services are included in this list. The following is a list including but not limited to exemptions that may be applicable to school districts and charter schools: Reference Section 13-1-98 NMSA 1978 for complete list.

- Procurement by a state agency or a local public body from a state agency, a local public body or external procurement unit;

- Printing and duplicating of materials related to proceedings before administrative agencies or state or federal courts;
- Publicly provided or publicly regulated gas, electricity, water, sewer, and refuse collection services;
- Books and periodicals from the publishers or copyright holders thereof;
- Travel or shipping by common carrier or by private conveyance or to meals and lodging;
- Contracts with businesses for public school transportation service;
- Certain procurements by the corrections industries division of the corrections department;
- Minor purchases not exceeding five thousand dollars consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;
- Municipalities having adopted home rule charters and having enacted their own purchasing ordinances;
- The issuance, sale and delivery public securities;
- Contract and expenditures for litigation expenses but not including attorney contracts;
- Advertising in all media, including radio, television, print and electronic.

Whenever possible, purchasing staff are always encouraged to seek the best pricing regardless of whether the goods or services are included in the list above. Example: fuel for transportation, advertising, printing, etc.)

Next Page

PUBLIC NOTICE

Section 13-1-104, NMSA 1978 Competitive sealed bids; public notice.

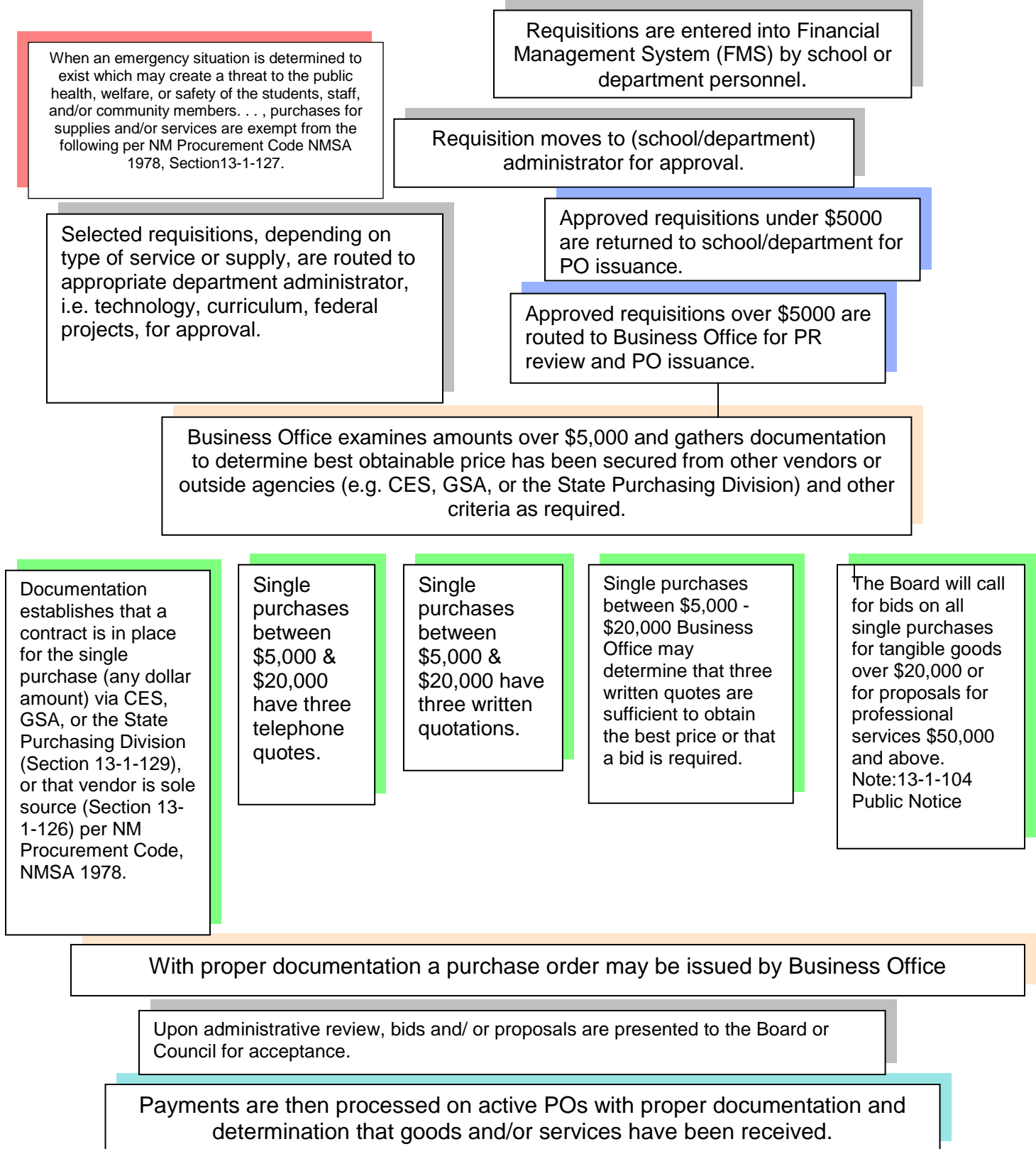
- A. *An invitation for bids or a notice thereof shall be published not less than ten calendar days prior to the date set forth for the opening of bids. In the case of purchases made by the state purchasing agent, the invitation or notice shall be published at least once in at least three newspapers of general circulation in this state; in addition, an invitation or notice may be published electronically on the state purchasing agent's web site that is maintained for that purpose. In the case of purchases made by other central purchasing offices, the invitation or notice shall be published at least once in a newspaper of general circulation in the area in which the central purchasing office is located. These requirements of publication are in addition to any other procedures that may be adopted by central purchasing offices to notify prospective bidders that bids will be received, including publication in a trade journal, if available. If there is no newspaper of general circulation in the area in which the central purchasing office is located, such other notice may be given as is commercially reasonable.*
- B. *Central purchasing offices shall send copies of the notice or invitation for bids involving the expenditure of more than twenty thousand dollars (\$20,000) to those businesses that have signified in writing an interest in submitting bids for particular categories of items of tangible personal property, construction and services and that have paid any required fees. A central purchasing office may set different registration fees for different categories of services, construction or items of tangible personal property, but such fees shall be related to the actual, direct cost of furnishing copies of the notice or invitation for bids to the prospective bidders. The fees shall be used exclusively for the purpose of furnishing copies of the notice or invitation for bids of proposed procurements to prospective bidders.*
- C. *A central purchasing office may satisfy the requirement of sending copies of a notice or invitation for bids by distributing the documents to prospective bidders through electronic media. Central purchasing offices shall not require that prospective bidders receive a notice or invitation for bids through electronic media.*
- D. *As used in this section, "prospective bidders" includes persons considering submission of a bid as a general contractor for the construction contract and persons who may submit bids to a general contractor for work to be subcontracted pursuant to the construction contract. Central purchasing offices shall make copies of invitations for bids for construction contracts available to prospective bidders. A central purchasing office may require prospective bidders who have requested documents for bid on a construction contract to pay a deposit for a copy of the documents for bid. The deposit shall equal the full cost of reproduction and delivery of the documents for bid. The deposit, less delivery charges, shall be refunded if the documents for bid are returned in usable condition within the time limits specified in the documents for bid, which time limits shall be no less than ten calendar days from the date of the bid opening. All forfeited deposits shall be credited to the funds of the applicable central purchasing office.*

PURCHASING PROCESS FLOWCHART

The flowchart serves as model for conducting the purchasing process and may be modified according to the specific operating conditions of individual school districts or charter schools. The various steps on the flowchart reference the related Procurement Code statutes. The above competitive bid or proposal solicitation procedures may be conducted in carrying out the solicitation requirements incorporated within the flowchart. The purchasing process may also be done traditionally or on-line utilizing a computer based procurement purchasing and receiving system. Depending on the size and structure of the school district or charter school, these instructions will vary. See the following flowchart:



ABC Public School Flowchart Demonstrating Local Procedures



RECEIVING PROCESS

This step of the purchasing cycle can be either centralized or decentralized as explained previously or any variation. If possible, and whenever practical, *receiving* personnel should be persons other than those initiating the purchases.

Section 13-1-157. NMSA 1978. Receipt, Inspection, Acceptance or Rejection of Deliveries.

“The using agency is responsible for inspecting and accepting or rejecting deliveries. The using agency shall determine whether the quantity is as specified...and whether the quality conforms to the specifications...If...not...notify the central purchasing office. The central purchasing office shall notify the vendor that the delivery has been rejected and shall order the vendor to promptly make the satisfactory replacement or supplementary delivery. If the vendor fails to comply, the central purchasing office shall have no obligation to pay...”

Steps In The Receiving Process

- Authorized purchase information (i.e., purchase order copy, electronic data files) established by the central purchasing office must be accessible at the location where the delivery of goods or service is to be made. The information will be used to verify deliveries for accuracy and completeness.
- For each individual purchase contract, a receiving document or other recording instrument (i.e., electronic) shall be present at the delivery site to record the delivery of items or service.
- Upon receipt of ordered goods or services, the authorized receiving personnel will immediately inspect and verify that the items or service described within the authorized purchase information have, in fact, been received.
- All goods received should be inspected for obvious damage. Exchanging, returning or refusing erroneous shipments or services with the contractor should correct discrepancies.
- All verified items or services should be recorded on the receiving document or other recording instrument (i.e., electronic file).
- Upon verifying and recording the receipt of all the items or services ordered, the receiving document or recording instrument shall be manually or electronically signed by authorized receiving personnel and processed for payment according to procedures established by school district or charter school boards' of education local procedures.

PAYMENT PROCESS

This step of the purchasing cycle shall be conducted, if at all possible and whenever practical, by authorized personnel other than those persons initiating the purchase or those who received the items ordered.

Section 13-1-158 NMSA 1978 payments for purchases - No warrant, check or other negotiable instrument shall be issued...unless the central purchasing office or the using agency certified that the services, construction or items of tangible personal property have been received and meet specification

Upon certification, the payment shall be tendered to the contractor thirty days from the date of certification. If the central purchasing office determines the services, construction or items of tangible personal property are not acceptable it shall, unless otherwise agreed upon by the parties, notify the contractor in writing within fifteen days that notification is complete or indicating a partial acceptance or rejection.

Steps To Process Payments

- The manually or electronically signed receiving document or other recording instrument (i.e., electronic file), authorized purchasing information (purchase order copy, electronic data files) must be accessible where vendor invoices are received and reviewed by authorized personnel.
- Authorized personnel shall verify that the information on the vendor invoice matches the authorized purchase information and receiving document or recording instrument in terms of quality, quantity, and price of items or services ordered, received, and invoiced.
- Any discrepancies shall be adjusted through any applicable means such as expediting outstanding shipments or obtaining credit via credit memo from vendor for overcharges or erroneous shipments.
- Adjustments must be completed prior to proceeding with payment.
- Upon verification that all items and/or services listed on 1) the authorized purchasing information, 2) the receiving document or instrument, and 3) the vendor invoice match, payment is approved, issued, recorded and filed in accordance to procedures established by the individual school district or charter school.

UNLAWFUL EMPLOYEE PARTICIPATION

Section 13-1-190. NMSA 1978 – Unlawful Employee Participation is prohibited.

A. Except as permitted by the University Research Park Act, it is unlawful for any state agency or local public body employee to participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the business seeking or obtaining a contract.

ETHICAL STANDARDS RELATED TO PROCUREMENT

Public purchasing involves the expenditure of significant amounts of public funds. This requires that ethical standards be incorporated into all purchasing functions. Public school staff must avoid the appearance of misconduct involving waste, fraud and abuse

of public funds. Personnel should clearly understand and demonstrate certain competencies in this area on a daily basis. Areas that may need additional attention include, but are not limited to the following:

- School employees including administrators and employees cannot accept anything of value from a vendor such as personal gifts or gratuities which may be construed to have been given to influence the purchasing process.
- Sequential purchasing of the same product or service over a period of time (fiscal year) could exceed competitive quotations and procurement requirements. Staff should attempt to anticipate needs to avoid this situation. Centralization and internal control could be jeopardized.
- Often equipment is purchased in component parts. Component purchasing could be construed as an attempt to circumvent bid laws by the issuance of multiple purchase orders verses a single purchase for the entire item. If this practice of purchasing optional or additional equipment, after the initial purchase, is repeated the perception could be that the purchase order is artificially divided to circumvent bidding processes as required.
- Staff should be well informed about conflicts of interest including but not limited to, the improper use of one's position or confidential information with the district or charter school, kick- backs and gratuities.
- Board/council members should abstain from voting on purchasing contracts that have been awarded to businesses in which they or their immediate family members have a financial interest. This relationship should be formally disclosed with an affidavit.

PENALTIES IN THE PROCUREMENT CODE

- School personnel involved in the purchasing process should be thoroughly informed about 1) the statutes, rules, policies and procedures that exhibit honesty and fairness, and; 2) the consequences for violations of purchasing laws and ethics which may include criminal prosecution and fines or employment opportunities.
- Some significant and criminal misdemeanor penalties and violations of the Procurement Code are delineated in Sections 13-1-196 through 13-1-199. NMSA 1978.

Continued Next Page

RISK ASSESSMENT TO ANALYZE PRACTICES AND PROCEDURES

Division of Duties/Reconciling Approvals
Separate people perform purchasing activities than those conducting reconciliation of accounts.
Reviewing and reconciling accounts payable control accounts is separate from the person who records the information
All expenditures are approved in accordance with written purchasing policies & procedures that are updated annually
Non-competitive purchasing
Sole source purchasing is justified by notation on PO's, contracts and requisitions
Emergency purchasing is justified by notation on PO's, contracts and requisitions
Purchases utilizing existing contracts are documented properly and in accordance with contract stipulations.
Appropriateness of expenditures
Purchases are tested for reasonableness of derived benefit
-
Policies and Procedures
Policies and Procedures for competitive bidding are in place for purchases over a specified amount
A Board policy is in place for small purchases that sets forth procedures and limits purchases below Statutory thresholds.
Training and Professional Development
Personnel are adequately trained and cross trained in the use of the NM Procurement Code
Security and Computer/System Access
Access is strictly controlled-authorized personnel perform specified functions

Are Policies and Procedures followed? Sometimes, Never, Always?

Risk to Assets - High, Medium or Low?

Is a segregation of duties apparent?

Cost / Benefit Positive or Negative?

Is there routine Communication between Management and Labor ?

Proper documentation is maintained for review by various entities

Reference Section 6-5-5 NMSA 1978 Criteria to determine the propriety of an expenditure (White Paper dated 2002) Summarized as 1) Statutory, 2) Public benefit, 3) Necessary, 4) Availability of Budget

Local Board policies are examined periodically and updated annually. Purchasing procedures are distributed to appropriate staff and strictly followed.

Staff receive periodic professional development and training on procurement in the public sector

Assessment includes a Plan for Corrective Action to address deficient

Computer usage is strictly controlled - Passwords are changed periodically

MODEL PURCHASING POLICY

ABC PUBLIC SCHOOLS

LOCAL PURCHASING PROCEDURES

The following procedures have been implemented to comply with State Of New Mexico regulations as established in the Manual of Procedures for Public School Accounting and Budgeting, Supplement 13 - Purchasing, and with the New Mexico Procurement Code, Statute Sections 13-1-28 through 13-1-199, NMSA 1978, which governs the use of Public Funds by State and Local Governments.

The following local procedures reflect appropriate internal controls as stipulated and support ethical behaviors by all personnel. Further, the administrative procedures as adopted shall provide safeguards to maintain a system of quality, integrity and ethical behaviors in the purchasing process.

PSAB SUPPLEMENT 13 - PURCHASING

Each school district and charter school shall have a purchasing policy adopted through action by its local Board of Education that adheres to the stipulations of the New Mexico Procurement Code.

All purchase transactions are executed through an authorized school district or charter school purchase order.

In all cases, the preparation and execution of an authorized purchase order must precede the placement of any order for goods, services or construction.

Any person who places an order for goods, services or construction without a duly authorized purchase order may be held personally liable for payment of delivered items and may be subject to the penalty stipulations of the Procurement Code.

ABC PUBLIC SCHOOLS BOARD POLICY – DISTRICT CODE 6.17

The following procedures for purchasing as adopted will be in compliance with the State Procurement Code (Section 13-1-28 through 13-1-199 NMSA 1978 and the Manual of Procedures for Public School Accounting and Budgeting, Supplement 13, Purchasing, 6.20.2 NMAC, and 2.2 2. NMAC.

DISTRICT PROCEDURES - PURCHASING GUIDELINES

- Small Purchases of \$5,000 or less must be requested on a Purchase Requisition based on the best obtainable price.
- Small purchases of services, construction, and/or items of tangible personal property exceeding \$5,000 but not greater than \$20,000 must be requested on a Purchase Requisition and school personnel shall obtain at least three telephone quotes which shall be recorded and placed with the purchase documents. In the event and when circumstances warrant, the requirement of three telephone quotes may be waived by the Business Manager in part or in full provided a written determination to this effect is included with the purchase documents.
- Purchases having a value of \$20,000 or more must be requested on a Purchase Request and include product or service information in such detail as to be used for obtaining formal bids or Request for Proposals.

It is unlawful to divide purchases into two (2) or more orders to circumvent the limits of the Procurement Code and procedural requirements stated above.

STEPS FOR REQUESTING A PURCHASE ORDER

- Personnel should allow 48 hours utilizing an automated system (or one (1) week for a manual system) for Purchase Requisitions to be processed and converted to a Purchase Order.
- Purchase Requisitions must be approved by the Principal/Administrator.

On an automated system purchase requisitions may be routed electronically to obtain additional and/or necessary approvals.

- Purchase Requisitions must be approved by the Superintendent or Business Manager. *This approval process may be accomplished electronically to expedite processing.*
- Accounts Payable personnel in the Business Office will process the Purchase Requisition and create a duly authorized Purchase Order on the school Financial Management System (FMS), which encumbers the purchase and obligates the budget.

In a decentralized system, authorized school site personnel may issue a purchase order with perhaps a specified limit, enter the transaction on the FMS, and forward all documents to the Business Office for processing.

- Accounts Payable personnel will reference the Purchase Order Number on the Purchase Requisition and return the Receiving copy of the Requisition to the school secretary.



If the purchase order was initiated at the school site, the school Secretary may mail or deliver the Purchase Order to the vendor depending on the approved procedures in place.

The request for goods or services is now authorized and school personnel have authority to make purchases on behalf of the school district.

- The Vendor copy of the Purchase Order must be forwarded by school personnel to the vendor referenced on the Purchase Request (**an alternative vendor may not be used**). If the Purchase Order is to an out of town vendor, then school personnel either at the school site or the Business Office, must mail or fax the Vendor Copy to the supplier.



The procedures above may include a combination of both the centralized and decentralized systems as long as internal control is not compromised

STEPS FOR RECEIVING THE PURCHASE

- It is imperative that as soon as merchandise is received at a school/department, that the purchase order is immediately cleared for payment.

Vendors expect to be paid within 30 days of a purchase. If the Purchase Order is not validated by school personnel, payment cannot be issued to the vendor.

- School personnel must write the Purchase Order number on receipts and sign OK TO PAY at the time of the receipt of the goods or services. All receipts must immediately be given to the school secretary for processing if applicable.
- Purchases of tangible goods must always be checked *visually* by authorized personnel. A Purchase Order or receiving document alone cannot be used to validate an order has been received. Authorized personnel shall verify *services* have been received before any payment is processed.
- The school secretary must match and attach the receipt with the Receiving copy of the Purchase Order and send the documents to the appropriate accounts payable personnel in the Business Office with the reference "OK TO PAY". Vendors should always reference Purchase Order numbers on the invoice and

forward directly to the Business Office to expedite processing. The Receiving copy of the Purchase Order should be maintained by the Business Office and attached to the purchase documents.

INPUT STANDARDS/PROCEDURES FOR ALL PURCHASE REQUISITIONS

PURCHASE ORDER TYPES

CATALOG AND OUT OF TOWN ORDERS

- All orders for specific items selected from a vendor catalog or order form must be entered **in detail** on the purchase order or as an attachment. (If 50 different items are being ordered, then there should be 50 detail lines on the PO or attachment. The user should include all information required by the vendor to identify the items requested on the purchase requisition. At a minimum, each item ordered should include the following information:
 - Quantity
 - Unit of measure (ea., box, doz., etc.).
 - Vendor Part or Order Number
 - Basic description to include make and model (if applicable)
 - Unit cost
 - Valid account code. Generally multiple accounts for one purchase are not allowed. Call the Business Manager to discuss if an exception is required.

NON-SPECIFIC AUTHORIZED PURCHASES

- This type of purchase is for in-town or surrounding area vendors only, for the purchase of allowable items from a general category to be selected in person by an authorized personnel. The preparation of this type of purchase requires the entry of at least two description lines. More description lines may be used as needed.

Each description line should include the following information.

- Quantity = 1
- Unit of measure = ea.
- Description = The title of an approved category of purchase including a NOT TO EXCEED DOLLAR AMOUNT. The approved categories are:
 - Instructional Materials/Classroom Supplies
 - Office Supplies
 - Student Incentives
 - Staff Incentives

- Meeting and Training Materials
- Resale Merchandise
- Unit Cost
- Total Estimated Cost of the Purchase
- Estimated Freight Costs
- Valid Account Code

The invoice (actual purchase) should specifically reflect the goods or service description on the purchase order. Invoice discrepancies will be rejected and unpaid by the Business Office until further review by the control agent.

District Internal Service Charges:

- A Purchase Request is required for all purchases/services requested from the following departments. The Purchase Order must be approved prior to the date of service.
 - Food Services
 - Performing Arts Center

PURCHASE ORDER INFORMATION

- Equipment or furniture purchases that cost \$5,000.00 or more must be purchased from Object Code 57331 (Fixed Assets-More than \$5,000). Equipment or furniture purchases that cost \$500.00 to \$4,999.00 must be purchased from Object Code 57332 (Supply Assets)
- Equipment or furniture purchases that are less than \$500.00 must be purchased from Object Code 56118 (Supplies).
- Technology purchases regardless of cost must always be coded to Activity 1004, except for Activity Funds (Fund 23xxx).
- Software purchases regardless of cost must always be coded to Activity Code 1004, except for Activity Funds (Fund 23xxx).

Fixed Costs/Open Purchase Orders:

- Open Purchases Orders (blanket PO's) are allowed only when specifically approved by the Business Manager. The following Open Purchase Orders are currently authorized:
 - Purchases from Maintenance Department
 - Fixed Cost Services such as lease agreements, maintenance agreements, cell phones and utility bills. Additionally the description should indicate how the amount will be paid (monthly, quarterly, etc.)

Anticipated obligations must be posted to the school financial management system (FMS) before expenditure budgets are considered to be accurate.

Voiding A Document

- If a Purchase Order document needs to be cancelled/voided, send the Receiving copy to the Business Office and write VOID on the PO.
- Reminder: Budget authority will be negatively affected if cancellations or voids are not processed on the financial management system. All outstanding purchase orders must be reviewed frequently.

Changes To Purchase Orders

- School personnel are prohibited from changing purchase orders or vendors without prior authorization from the Business Office.

(Adopted by the Board of Education December 25, 2010)

(End of Model Policy)_____

Insert the New Mexico Procurement Code, Sections 13-1-1 through 13-1-199, NMSA 1978.

The Manual of Procedures for Public School Accounting and Budgeting, Supplement 13, provides an overview of significant rules and recommended procedures that specifically relate to public schools.

Unless otherwise indicated, Procurement Code references may be abbreviated, paraphrased or reworded for clarity; passages may be missing key parts or requirements. Users are encouraged to reference the entire rule and to consult professional legal advice before making any procurement decision based entirely on information contained in PSAB Supplement 13 – Purchasing.

KEY WORDS INDEX

A

A Local Public Body., 10
Accepting, 19
Accountability, 1
Adjustments, 3
Administrative Procedures, 1
Advertising, 15
Appropriateness Of Expenditures, 22

B

Blanket Purchase Orders, 3
Books and Periodicals, 15
Budget Authority, 3
Budget Transfers, 3
Budgetary Controls, 3

C

Capital Projects, 3
Central Purchasing Office, 2
Centralized, 4, 19
Centralized Purchasing, 4
Competitive Bid, 15, 17
Competitive Bidding, 2, 22
Construction, 2, 4, 5, 6, 7, 9, 10, 11, 16, 20
Control Procedures, 3
Credit Memo, 20
Criteria, 8, 9, 10

D

Decentralized, 4, 19
Decentralized Purchasing, 4
Definite Quantity Contract, 10
Delegated Authority Policy, 2
Derived Benefit., 2
Disbursement, 2
Documentation, 3

Duplicate Payments., 3

E

Emergency Procurement, 9
Encumbrance, 3
Exemptions, 15
Exemptions, 15

F

Federal Supply Contract, 11
Flowchart, 15, 17
Formal Bid, 6
From General Ledger Entry., 2

I

Informal,, 6
Inspecting, 19
Invitation For Bids, 16

L

Litigation Expenses, 15
Local Procedures, 19
Local Procedures, 2, 3

M

Minor Purchases, 15
Model Policy, 2

N

Non-Competitive Procurements, 15
Non-Competitive Purchasing, 22
Non-Professional Services, 4
Notice or Invitation, 16

O

Objective, 1

P

Price Agreements, 10
Printing, 15
Procedures, 1, 2, 3, 4, 6, 16, 17, 19, 20, 22
Professional Services, 4, 6, 7, 9
Project Manager, 3
Proposal Solicitation Process, 6
Proposals, 7, 9
Prospective Bidders, 16
PSAB Supplement 13 – Purchasing, 1
Public Notice, 16
Purchase Contract, 7, 19
Purchase Order -13-1-77 NMSA 1978, 5
Purchase Requisitions, 4
Purchasing Policy, 1
Purpose, 1

R

Receiving Document, 19, 20
Receiving Functions, 2
Receiving Personnel, 19
Recording Instrument, 19, 20
Regulated Gas, 15
Rejecting, 19
Requisitions, 2, 3

Responses, 7
Returned Items, 3
Risk Assessment, 22

S

School Transportation, 15
Scope of Work, 7
Security, 22
Signatures, 3
Sole Source Procurement, 10
Sole Source Purchasing, 2
Statutory Thresholds, 2

T

Tangible Goods, 1, 4, 6, 7, 9
The General Services Department
GSD, 4
Travel, 15

V

Vendor Invoices, 3

W

Weighted Criteria, 7, 9

TABLE OF AUTHORITIES

2.2 2. NMAC	23
2.2.2.10.R. NMAC.....	14
6.20.2 NMAC	23
Section 13-1-125 NMSA 1978	8
Section 13-1-125. NMSA 1978.....	2, 8
Section 13-1-126. NMSA 1978.....	10
Section 13-1-127. NMSA 1978.....	9
Section 13-1-129. NMSA 1978.....	10
Section 13-1-135. NMSA 1978.....	11
Section 13-1-157. NMSA 1978.....	19
Section 13-1-158 NMSA 1978	20
Section 13-1-190. NMSA 1978.....	20
Section 13-1-28 through Section 13-1-199, NMSA 1978.....	1
Section 13-1-30 NMSA 1978	1
Section 13-1-37, NMSA 1978.....	4
Section 13-1-71. NMSA 1978.....	10
Section 13-1-77 NMSA 1978	5
Section 13-1-98 NMSA 1978	15
Section 22-2B-3. NMSA 1978.....	<u>12</u>
Section 6-15A-4 NMSA 1978.....	14
Section 6-5-6. NMSA 1978	3
Sections 11-1-1 through 11-1-7. NMSA 1978	13
Sections 13-1-102 through 13-1-125, 13-1-110 NMSA 1978	6
Sections 13-1-119 through 13-1-124 NMSA 1978.....	7
Sections 13-1-125, 13-1-111 through 13-1-117.NMSA 1978	7
Sections 13-1-196 through 13-1-199. NMSA 1978.....	21
Sections 13-1-28 through 13-1-199, NMSA 1978.....	23

NEW MEXICO PROCUREMENT CODE

The Manual of Procedures for Public School Accounting and Budgeting, Supplement 13, provides an overview of significant rules that specifically relate to public schools. For a complete listing of definitions and statutory guidance, users must reference the Procurement Code, Section 13-1-1 through 13-1-199 NMSA 1978. This additional supplement should be replaced annually and included in PSAB Supplement 13.

Insert the Procurement Code, Section 13-1-1 through 13-1-199, NMSA 1978!

Unless otherwise indicated, all Procurement Code references are abbreviated, paraphrased or reworded for clarity; passages may be missing key parts or requirements. Users are cautioned to seek out the exact wording and to consult professional legal advice before making any procurement decision based on information contained in Supplement 13 – Purchasing

Sequential numbering for PO's

SAMPLE PURCHASE ORDER

PURCHASE ORDER		ABC Independent Public School		Purchase Order No. 123456											
Complete delivery of this order must be received within 45 days after date of PO. Order may be cancelled at that time.		Invoice is payable upon receipt of goods or services. Mail Invoice to:		Verbal orders are not binding unless authorized on this form No C.O.D. orders unless previously authorized.		Instructions To Vendor reflect Local policies and NM Procurement									
PO Date:															
PO Issued To: Lakeshore Learning Materials 2600 Capital Street Los Angeles, CA 90005		Invoice and "ship to" address may be different		Ship To: ABC Independent Schools Administration Office 1100 Central Street Santa Fe, New Mexico 87504											
Contact:	Location:	Administration Office													
Phone:	Fax:	Project:	Library			Req. #									
Reference:		Date Required:		Award Number:											
QTY	Unit	Part #	Description	Account Number (code)	Unit Price	Extended	Tax	Freight							
1		RE-311	Classroom material Student CD	11000.1000.56118.1010.036160	299.00	299.00	0	44.85							
			Grades 1-3												
Description must be specific -Account code must be applicable for the			The purchase order may be distributed in three parts - Vendor Copy, the File Copy, and												
Approval Signatures:				<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="background-color: #d9ead3;">Sub Total</td> <td style="text-align: right;">299.00</td> </tr> <tr> <td style="background-color: #d9ead3;">Freight</td> <td style="text-align: right;">44.85</td> </tr> <tr> <td style="background-color: #d9ead3;">Tax</td> <td style="text-align: right;">0</td> </tr> <tr> <td style="background-color: #d9ead3;">Total Amount</td> <td style="text-align: right;">343.90</td> </tr> </table>				Sub Total	299.00	Freight	44.85	Tax	0	Total Amount	343.90
Sub Total	299.00														
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Tax	0														
Total Amount	343.90														
Notes:				Entity Copy											
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ABC PUBLIC SCHOOLS
Office of Business Services
REQUEST FOR EMERGENCY PROCUREMENT

I, _____ the authorized designee of the ABC Public Schools hereby authorize this emergency procurement in keeping with the provisions of Section 13-1-127B NMSA (see below), which I have read.

Superintendent/Designee

Date

Business Manager/Procurement Officer

Date

Describe the Emergency:

Document the justification for the procurement method (i.e. vendors contacted (name and address), quotation amounts, amount and term of the contract, a listing of the services, construction or tangible personal property procured under the contract, etc.) :

Principal/Director

Date

13-1-27B Emergency Procurements

- A. *The state purchasing agent, a central purchasing office or designee of either may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions, provided that emergency procurements shall be made with competition as is practicable under the circumstances. A written determination of the basis for the emergency procurement and for the selection of the particular contractor shall be included in the procurement file. Emergency procurements shall not include the purchase of lease purchase of heavy road equipment.*
- B. *An emergency condition is a situation which creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots equipment failures or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction , or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:*

*the functioning of government;
the preservation or protection of property; or
the health or safety of any person*