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ST. CROIX PREPARATORY ACADEMY PURCHASING, PROCUREMENT, AND CONTRACTING Policy #SCPA-709

I. PURPOSE

The purpose of this policy is to establish procedures for carrying out purchasing, procurement, and contracting functions of St. Croix Preparatory Academy (SCPA), to provide efficient use of public monies, and to ensure compliance with all applicable state and federal laws, including Minnesota Statutes Section 124E.26, subdivision 4, with respect to procurement using state or federal funds.

II. CONFLICT OF INTEREST

A. Consistent with Minnesota Statutes Section 124E.14, no SCPA board member, employee, officer, or agent shall participate in selecting, awarding, or administering a contract if a conflict of interest exists. A conflict exists when any of the following has a financial or other interest in the entity with which SCPA is contracting:

1. The SCPA board member, employee, officer, or agent;
2. The immediate family member of the SCPA board member, employee, officer, or agent;
3. The partner of the SCPA board member, employee, officer, or agent; or
4. An organization that employs, or is about to employ any individual in clauses 1 to 3,

A violation of this prohibition renders the contract void.

B. No SCPA board member or employee may solicit or accept gratuities, favors, or anything of monetary value above a nominal \$5 value from contractors or in exchange for an agreement to support a contract.

III. PROCUREMENT STANDARDS



- A. **Authorization:** The SCPA Executive Director and/or Executive Director of Finance & Operations, in conjunction with the school board, is responsible for overseeing the procurement process, including establishment of procedures, internal controls, quality assurance, methods of greatest economy, and compliance with all applicable laws. To be valid, all contracts must be approved by the board, except as otherwise provided in this policy.

Individual school employees may incur expenditures in the following amounts without prior board approval so long as such expenditures are consistent with SCPA's board-approved budget, provided that in all cases the board retains authority to disapprove any expenditure for any reason at the sole discretion of the board:

1. Any SCPA employee may make purchases for use in connection with school operations where the expenditure is less than \$1,000 consistent with the requirements of this Policy.
 2. In addition to the foregoing, the following SCPA employees may execute a purchase or procurement that requires the expenditure of up to the following amounts:
 - a. Executive Director: Up to \$100,000
 - b. Executive Director of Finance and Operations: Up to \$100,000
 - c. Director of Student Services: Up to \$100,000
 3. Purchases must not be broken up into smaller component purchases to avoid these thresholds.
- B. **Scope:** Purchasing procedures apply to procurement of equipment, supplies, and services, including services provided by vendors and by individuals who are engaged by SCPA as independent contractors (i.e. individuals who receive a form 1099 rather than form W-2). Purchasing procedures do not apply to hiring employees of SCPA (i.e. individuals who receive a W-2).
- C. **Documentation:** The Executive Director and/or Executive Director of Finance & Operations shall design and implement procedures to create and preserve documentation establishing that all procurement is implemented in accordance with this policy.



Individuals requesting material goods or contracts to be purchased will complete a pre-approval form prior to purchase. The practice will assure the following:

1. All purchases are conducted in a manner providing a full and open competition when required;
2. Non-duplication of purchases for the same program;
3. The purchase of a quality product rather than brand name; and
4. An accurate description of the product and its use.

The documents will be maintained in accordance with SCPA's Record Retention Policy.

- D. **Best Value:** SCPA shall endeavor to obtain the best value in all purchase or procurement decisions, taking into account the price, quality, and quantity of the goods or services being purchased or procured, along with other relevant considerations.

IV. PROCUREMENT USING STATE FUNDS

The following will govern purchases using state funds.

- A. **Purchases Less than \$25,000.** The Executive Director and/or Executive Director of Finance & Operations shall be responsible for implementing purchases of less than \$25,000 in a manner consistent with this Policy and as the Executive Director and/or Executive Director of Finance & Operations deems appropriate. The Executive Director and/or Executive Director of Finance & Operations shall, when reasonably practicable, endeavor to obtain competitive market rates or purchase at reasonably competitive available prices or rates.
- B. **Purchases of \$25,000 Or More.** Prior to any purchase of \$25,000 or more, the Executive Director, Executive Director of Finance & Operations, or designee shall obtain bids or quotations from at least two sellers or vendors or if market conditions for a purchase are such that sellers or vendors will not respond to a request for bids or quotes, shall otherwise endeavor to compare the prices of a least two sellers or vendors, in all cases endeavoring to ensure that each of the bids, quotations, or comparison prices reflects substantially equal quantity



and quality. In doing so, the Executive Director, Executive Director of Finance & Operations, or designee shall comply with the following provisions:

1. To solicit bids or quotes SCPA (i) shall post a request for bids or quotations on a public portion of SCPA's website or utilize another public posting mechanism as reasonably determined by the Executive Director and/or Executive Director of Finance & Operations, and (ii) shall deliver solicitations to two or more potential vendors. SCPA shall provide a reasonable time, and in no event fewer than five (5) business days, for response to any solicitation of or posting for bids or quotations.
2. If, after such reasonable time, SCPA has not received two or more bids or quotations for the goods or services to be purchased, the Executive Director, Executive Director of Finance & Operations, or designee shall use reasonably prudent inquiry to ascertain the price for such goods or services from two or more vendors.
3. If, after complying with all of the foregoing, SCPA is able to locate only a single seller, vendor, supplier, or contractor from which to purchase any particular good or service, or due to the nature of the good or services being procured, the market is such that there is only one vendor or contractor to supply such good or service to SCPA, the Executive Director, Executive Director of Finance & Operations, or designee shall, to the extent reasonably practicable, endeavor to negotiate for the most favorable price that may be obtained from such vendor or contractor.



C. **Determination of Cost.**

1. SCPA shall not break up any purchase into smaller component purchases to avoid the thresholds in this Section.
2. In determining the cost of a contract, the total cost of the contract under its stated term shall apply. For contracts that have an annual price but a multi-year term, or include an automatic annual renewal provision, the total of all years shall apply.
3. The provisions related to procurements of less than \$25,000 shall apply to contracts for services where the total cost of services cannot be determined because the cost is dependent upon periodic or as-needed requests for services by SCPA, at its discretion, and the following are true: (a) the contract does not require an advance payment or deposit, and (b) the contract or the services may be terminated without cause at any time by SCPA.

V. **PROCUREMENT USING FEDERAL FUNDS**

For procurement involving the use of federal funds, SCPA shall utilize the following purchase thresholds and corresponding procurement methods:

A. **Informal Procurement Methods for Small Purchases.**

1. Micro-purchases. Micro-purchases are those where the aggregate amount of the procurement transaction does not exceed \$10,000. This may be increased to \$50,000 on an annual basis if SCPA self-certifies and provides supporting documentation. All self-certifications and supporting documentation shall comply with 2 C.F.R. § 200.320(a)(1)(iv). Micro-purchases may be awarded without soliciting competitive price or rate quotations if SCPA considers the price reasonable based on research, experience, purchase history, or other information and maintains documentation to support its conclusion.
2. Simplified Acquisitions. Simplified acquisitions are procurement transactions in which the aggregate dollar amount of the transaction is higher than the micro-purchase threshold (\$10,000, or \$50,000, if applicable), but lower than \$250,000. In simplified acquisitions, SCPA must obtain price or rate quotations



from an adequate number of qualified sources. SCPA may exercise judgment in determining what number is adequate.

B. Formal Procurement Methods. SCPA shall use one of the following formal procurement methods when the value of the procurement transaction exceeds the simplified acquisition threshold.

1. Sealed Bids. Bids are publicly solicited through an invitation and a firm fixed-priced contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforms to all material terms and conditions of the invitation and is the lowest in price.
 - a. Sealed bids are appropriate when:
 - i. A complete, adequate, and realistic specification or purchase description is available;
 - ii. Two or more responsible bidders have been identified as willing and able to compete effectively for the business; and
 - iii. The procurement lends itself to a firm-fixed-price contract, and the selection of the successful bidder can be made principally on price.

This formal procurement method is preferred for procuring construction services.

- b. When sealed bids are used, the following requirements apply:
 - i. Bids must be solicited from an adequate number of qualified sources, providing them with sufficient response time prior to the date set for opening the bids. Unless specified by the federal agency, SCPA may exercise judgment in determining what number is adequate;
 - ii. The invitation for bids must define the items or services with specific information, including any required specifications, for the bidder to properly respond;
 - iii. All bids will be opened at the time and place prescribed in the invitation for bids.
 - iv. A firm-fixed-price contract is awarded in writing to the lowest responsive bid and responsible bidder. When specified in the invitation for bids, factors such as discounts, transportation cost, and life-cycle costs must be considered in determining which bid is the lowest. Payment discounts must only be used to determine the low bid when SCPA determines they are a valid factor based on prior experience.



- v. SCPA must document and provide a justification for all bids it rejects.
 - 2. Proposals. Proposals may be used when conditions are not appropriate for using sealed bids. This procurement method may result in either a fixed-price or cost-reimbursement contract. They are awarded in accordance with the following requirements:
 - i. Requests for proposals require public notice, and all evaluation factors and their relative importance must be identified. Proposals must be solicited from multiple qualified entities. To the maximum extent practicable, any proposals submitted in response to the public notice must be considered.
 - ii. SCPA must have written procedures for conducting technical evaluations and making selections.
 - iii. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to SCPA considering price and other factors; and
 - iv. SCPA may use competitive proposal procedures for qualifications-based procurement of architectural/engineering professional services whereby the offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method where the price is not used as a selection factor can only be used to procure architectural/engineering professional services, but may not be used to purchase other services provided by architectural/engineering firms that are a potential source to perform the proposed effort.
- C. **Noncompetitive Procurement.** SCPA may use a noncompetitive procurement method only if one of the following circumstances applies:
 - 1. The aggregate amount of the procurement transaction does not exceed the micro-purchase threshold;
 - 2. The procurement transaction can only be fulfilled by a single source;
 - 3. The public exigency or emergency for the requirement will not permit a delay resulting from providing public notice of a competitive solicitation;
 - 4. SCPA requests in writing to use a noncompetitive procurement method, and the federal agency or pass-through entity provides



- written approval; or
5. After soliciting several sources, SCPA determines competition is inadequate.

D. Contracting Preferences.

1. SCPA will take all necessary steps to assure that small and minority firms and women's business enterprises are used when possible consistent with the requirements of 2 C.F.R. § 200.321.
2. SCPA will give preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States consistent with the requirements of 2 C.F.R. § 200.322.

E. Cost Oversight.

1. SCPA shall perform a cost or price analysis in connection with procurement actions in excess of the simplified acquisition threshold, which will include making independent estimates before receiving bids or proposals.
2. SCPA must negotiate profit as a separate element of the price for each contract in procurement actions in excess of the simplified acquisition threshold and in those cases where there is no price competition. In assessing a fair and reasonable profit, SCPA will consider the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
3. Costs or prices based on estimated costs for contracts are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for SCPA under federal regulations.
4. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.
5. SCPA is responsible for oversight of the operations of activities supported by the federal award to ensure compliance with



applicable federal requirements and performance expectations.

- F. **Record Retention.** Except to the extent the retention requirement is altered by 2 C.F.R. § 200.334 or the specific terms of the federal funding, SCPA must retain all federal funding award records for three years from the date of submission of its final financial report. For awards that are renewed quarterly or annually, SCPA must retain records for three years from the date of submission of its quarterly or annual financial report, respectively. Records to be retained include but are not limited to, financial records, supporting documentation, and statistical records.

VI. EXPENDITURES

1. Purchases are made in accordance with applicable legal requirements. Purchase orders are required for all purchases not made by a credit card.
2. The individual or head of the department prepares a Pre-Approval form and submits it to the Executive Director and/or Executive Director of Finance & Operations for approval.
3. The Executive Director and/or Executive Director of Finance & Operations determines if an appropriation exists for the purchase.
4. The related department director creates a Purchase Order, a copy of the purchase order is distributed to the vendor. The original is retained by the Operations department.
5. All current fiscal year purchases to be completed by April 30 of said year with the exception of board-approved expenditures made after that date.

LEGAL REFERENCES:

2 C.F.R. § 200.317-327
2 C.F.R. § 200.329
2 C.F.R. § 200.332
2 C.F.R. § 200.334
Minn. Stat. § 124E.14
Minn. Stat. § 124E.26
Minn. Stat. § 471.895



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