

Mountain View Whisman School District

Purchasing Processes and Procedures for Services, Equipment, Materials and Supplies

This document complies with all current District Board Policies (BPs) and Administrative Regulations (ARs). If the District's Board approves updated BPs or ARs, District staff must correspondingly revise this document.

Delegated Authority. No District staff, including school principals and director-level staff, have authority to procure any item or service, unless the Board has delegated that authority to those positions. All District staff who have that authority, must follow this document when procuring any item or service.

Contract Form. District staff must only utilize the District's form of contract for any services and should not incorporate a vendor's proposal into that contract. If there is scope information (not terms or conditions) from a vendor's document that District staff wishes to utilize, it can copy and paste that language only into the District's form of contract. If District staff does not, for whatever reason, utilize a District's form of contract, it must inform the Board of this as part of the agenda item with a brief explanation of the reason for doing so.

Scope. District staff will ensure that the scope of the services or products that the vendor is providing under a contract, is express, detailed and not open ended. In addition, any changes to a contract (via amendment, change order, etc.) is also approved or ratified by the board in the same manner as any new contract and that the scope of any change to a contract is appurtenant to and related to the work of the original contract, to avoid "scope creep" of unrelated scopes of work to an existing contract.

Renewals. District staff must inform the Board as part of the agenda item if the contract has an automatic renewal. In addition, District staff must bring to the Board for approval or ratification, any non-automatic renewal of a contract.

Conflict of Interest. District staff must ensure full compliance with the District's conflict of interest policy found in Board Bylaw 9270, and the following:

1. **The Political Reform Act of 1974 (Gov. Code, § 87100 et seq.):** Prohibits public employees from using their official positions to influence governmental decisions in which they have a financial interest.
2. **Government Code § 1090:** Prohibits a public officer or employee from being financially interested in any contract made by the officer or employee in his or her official capacity.
3. **The common law conflict of interest doctrine (embodied in case law):** Requires public employees to avoid placing personal interests above or in conflict with their duty to the public and to avoid creating the appearance or impression of impropriety.

Audits. At the end of each calendar quarter, District staff shall perform spot audits of ten (10) contracts approved in the past quarter to ensure compliance with these Purchasing Processes and Procedures.

Real Property. This document does not address the procurement of real property, which District staff should only procure with the assistance of legal counsel.

Checklist. Attached to this document is a "Contract Approval Checklist" that District staff will prepare for each contract being brought to the Board for approval or ratification.

SERVICES: NON-CONSTRUCTION		
	Process and Procedures	Applicable Law & Notes
Professional Services / Special Services: Contracts for Services including Financial, Economic, Accounting, Legal, Administrative, Insurance, etc.	These purchases are not controlled by a bid limit and no procurement process is statutorily required. Even so, if the cost is expected to exceed \$50,000, District staff should take reasonable steps to: ● Seek prices (proposal, invoice, estimate, price sheet, etc.) from multiple different vendors for the service(s) the District is purchasing; ● Review and evaluate vendors' websites, references and qualifications; and ● Select a qualified vendor that provides the best value to the District at a reasonable price. <i>District staff should also confirm with legal counsel whether the service is "special" under the statute.</i>	Government Code §53060 states that school districts and other public entities may contract without bidding for, <i>"special services and advice in financial, economic, accounting, . . . legal, or administrative matters if such persons are specially trained and experienced and competent to perform the special services required."</i> In addition, PCC §20111(d) states: <i>"This section shall not apply to professional services or advice, insurance services, or any other purchase or service otherwise exempt from this section."</i> PCC §20111(d) complies with Government Code §53060.
Services (Non-Construction): LESS THAN \$114,800	These purchases are not controlled by a bid limit and no procurement process is statutorily required. Even so, if the cost is expected to exceed \$50,000, District staff should take reasonable steps to: ● Seek prices (proposal, invoice, estimate, price sheet, etc.) from multiple different vendors for the service(s) the District is purchasing; ● Review and evaluate vendors' websites, references and qualifications; and ● Select a qualified vendor that provides the best value at a reasonable price.	<i>"The governing board . . . shall let any contracts involving an expenditure of more than [\$114,800] for . . . [s]ervices, except construction services." (PCC §20111(a)(1)(B).) "The . . . contract [shall be let] to the lowest responsible bidder who shall give security as the board requires[.]" (PCC §20111(a)(2).)</i> Note: ● This bid limit increases every January 1. It is \$114,800 in 2025. ● This is <u>not</u> an annual bid limit, but a <u>contract</u> bid limit. ● The District would be required to rely on this statutory structure when the service is not "special" under Gov. Code § 53060 or PCC §20111(d).
Services (Non-Construction): \$114,800 & ABOVE	These contracts must either be: ● Formally bid. See "Formal Bid Process" below; or ● Procured via one of the other applicable procurement processes in this table (e.g., Special Services, etc.)	
Waste Services	There are generally very limited options for waste and recycling services, and the District can seek the most competitive pricing for the most complete and convenient services.	A school district may procure its own solid waste handling services and the school district can decide, "Whether the services are to be provided by means of nonexclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding[.]" (Pub. Resources Code § 40059(a)(2).)

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SERVICES: NON-CONSTRUCTION		
	Process and Procedures	Applicable Law & Notes
Transportation: \$10,001 & ABOVE	These contracts must be formally bid. See "Formal Bid Process" below. After bidding, the District may award to <u>any</u> bidder, even if not the lowest bidder.	"In order to procure the service at the lowest possible figure consistent with proper and satisfactory service, the governing board shall, whenever an expenditure of more than ten thousand dollars (\$10,000) is involved, secure bids pursuant to Sections 20111 and 20112 of the Public Contract Code whenever it is contemplated that a contract may be made with a person or corporation other than a common carrier or a municipally owned transit system or a parent or guardian of the pupils to be transported. The governing board may let the contract for the service to <u>other</u> than the lowest bidder." (Ed. Code § 39802; emphasis added.)
Services (Construction Related): Architects, CMs, etc.	The District must procure these items through a request for qualifications ("RFQ") or RFP process. See "RFQ/RFP Process" below.	A school district must utilize a "fair, competitive selection process" (Gov. Code §4529.12.) for "architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services." (Gov. Code §4525(c).)

SERVICES: CONSTRUCTION		
	Applicable Law	Notes
The District opted via a resolution passed in 2004, to comply with the California Uniform Public Construction Cost Account Act ("CUPCCAA"), and the following processes and bid limits apply to all construction, repair and maintenance contracts.		
Construction, Repair or Maintenance Services: <u>UP TO \$75,000</u>	These smaller projects do not require a procurement process. Even so, District staff should take reasonable steps to: ● Seek prices (proposal, invoice, estimate, price sheet, etc.) from multiple different contractors for the service(s) the District is purchasing; ● Review and evaluate contractors' websites, references and qualifications; and ● Select the lowest price option from the qualified contractor with a compliant proposal.	PCC 22032: "(a) Public projects of <u>seventy-five</u> thousand dollars (\$75,000) or less may be performed ... by negotiated contract, or by purchase order. (b) Public projects of two hundred <u>twenty</u> thousand dollars (\$220,000) or less may be let to contract by informal procedures as set forth in this article. (c) Public projects of more than two hundred <u>twenty</u> thousand dollars (\$220,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure."

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SERVICES: CONSTRUCTION		
	Applicable Law	Notes
Construction, Repair or Maintenance Services: \$75,001 to \$220,000	These contracts must either be: - Informally bid. See "Informal Bid Process" below; or - Procured via one of the other applicable procurement processes in this table (e.g., LLB, Energy Services, etc.)	- The above bid limits also apply to the Districts repair and maintenance contracts because the District opted to include those contracts under the CUPCCAA bid limits. - The District can always opt to "informally bid" projects under \$75,000 and to formally bid projects under \$220,000.
Construction, Repair or Maintenance Services: \$220,001 <u>AND ABOVE</u>	These contracts must either be: - Formally bid. See "Formal Bid Process" below; or - Procured via one of the other applicable procurement processes in this table (e.g., LLB, Energy Services, etc.)	
Construction, Repair or Maintenance Services Force Account (District Employees) Services: <u>UP TO \$75,000</u>	This is not a "procurement" method, but District employees may perform construction, repair or maintenance services if the indirect costs, equipment costs, direct costs and statutory overhead of 30% do not cumulatively exceed \$75,000.	PCC 22032: <i>"(a) Public projects of sixty thousand dollars (\$75,000) or less may be performed by the employees of a public agency by force account ..."</i>
Energy Service / Energy Efficiency Contract	These projects are not controlled by a bid limit and no procurement process is statutorily required. Even so, District staff should take reasonable steps to: - Seek prices (proposal, invoice, estimate, price sheet, etc.) from multiple different vendors for the energy service(s) and product(s) the District is purchasing, generally through an RFQ and/or RFP process. See "RFQ/RFP Process" below; and - Select the best option from a qualified vendor, under a contract for which the anticipated cost of the contract is paid for from the anticipated savings from the contract.	<i>"Prior to awarding or entering into an [energy service contract], the public agency <u>may</u> request proposals from qualified persons. After evaluating the proposals, the public agency may award the contract on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations."</i> (Gov. Code §4217.16, emphasis added.) Prior to awarding a contract, the Board must make an "anticipated savings" finding, at a hearing, <i>"[t]hat the anticipated cost to the public agency for thermal or electrical energy or conservation services provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the public agency of thermal, electrical, or other energy that would have been consumed by the public agency in the absence of those purchases."</i> (Gov. Code § 4217.12.)

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SERVICES: CONSTRUCTION		
	Applicable Law	Notes
Construction Services: Lease-Leaseback ("LLB") Procurement Process	These contracts must be procured via an RFQ or RFP process. See "RFQ/RFP Process" below. District staff should only utilize an LLB procurement process with the assistance of legal counsel.	- Contract shall be awarded based on "competitive solicitation process" to contractor providing the best value based on RFQ and/or RFP. (Ed. Code §17406 (a)(2).) - District must advertise in the newspaper <u>and</u> in a trade paper. (Ed. Code §17406 (a)(2)(B).) - In most cases, the contractor must advertise in the newspaper for subcontractors <i>"in accordance with the publication requirements applicable to the competitive bidding process of the school district."</i> (Ed. Code § 17406 (a)(4)(B)(i).) - Strict skilled and trained workforce requirements are conditions of this procurement method. (Ed. Code § 17407.5(a).)
Construction and Design Services: Design-Build Procurement Process	These contracts must either be: - Formally bid. See "Formal Bid Process" below; or - Procured via an RFQ or RFP process. See "RFQ/RFP Process" below. There is no prohibition on using this structure on a "progressive" design-build project. District staff should only utilize a design-build procurement process with the assistance of legal counsel.	Education Code §§ 17250.10-17250.55. - Public projects > \$1,000,000 may be awarded to the low bidder or contractor providing the best value. (Ed. Code § 17250.20.) <i>"Best value means a value determined by evaluation of objective criteria that may include, but are not limited to, price, features, functions, life-cycle costs, experience, and past performance."</i> (Ed. Code § 17250.15(a)(1).) <i>"A best value determination may involve the selection of the lowest cost proposal meeting the interests of the school district and the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring school district, or a tradeoff between price and other factors adopted by the Board."</i> (Ed. Code § 17250.15(a)(2).) - Strict skilled and trained workforce requirements are conditions of this procurement method. (Ed. Code § 17250.25(c).)

SERVICES: CONSTRUCTION		
	Applicable Law	Notes
Construction and Design Services: Alternative ("Progressive") Design- Build Procurement Process	These contracts must either be: - Formally bid. See "Formal Bid Process" below; or - Through an RFQ or RFP process. See "RFQ/RFP Process" below. District staff should only utilize a design-build procurement process with the assistance of legal counsel.	Education Code §§ 17250.60-17250.68. - The procurement process is essentially the same as the design-build statute above, but expressly allows for use on a "progressive" design build project. - Public projects > \$5,000,000 may be awarded to the low bidder or contractor providing the best value. (Ed. Code §§ 17250.6(a) & 17250.61(a).) - These may be awarded to the low bidder or contractor providing the best value. (Ed. Code § 17250.61.) - Strict skilled and trained workforce requirements are conditions of this procurement method. (Ed. Code § 17250.62(c).)
Emergencies	District may perform emergency work by day labor, by contractor, or by a combination of the two. No procurement process is statutorily required. District staff should only rely on an emergency procurement process with the assistance of legal counsel.	An "emergency" is defined as <i>"a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."</i> (PCC § 1102.) For school districts, this includes work to "permit the continuance of existing school classes, or to avoid danger to life or property." (PCC §20113.) PCC §22050(a): <i>(1) In the case of an emergency, a public agency, pursuant to a four-fifths vote of its governing body, may repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts.</i> <i>(2) Before a governing body takes any action pursuant to paragraph (1), it shall make a finding, based on substantial evidence set forth in the minutes of its meeting, that the emergency will not permit a delay resulting from a competitive solicitation for bids, and that the action is necessary to respond to the emergency.</i>

EQUIPMENT, MATERIALS & SUPPLIES		
	Process and Procedures	Applicable Law & Notes
Equipment, Materials and Supplies: <u>LESS THAN \$114,800</u>	These purchases are not controlled by a bid limit and no procurement process is statutorily required. Even so, if the cost is expected to exceed \$75,000, District staff should take reasonable steps to: ● Seek prices (proposal, invoice, estimate, price sheet, etc.) from multiple different vendors for the service(s) the District is purchasing; ● Review and evaluate vendors' websites, references and qualifications; and ● Select a qualified vendor that provides the best value at a reasonable price.	<i>"The governing board . . . shall let any contracts involving an expenditure of more than [\$114,800] for . . . [t]he purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district."</i> (Public Contract Code ("PCC") §20111(a)(1)(A).) <i>"The . . . contract [shall be let] to the lowest responsible bidder who shall give security as the board requires[.]"</i> (PCC §20111(a)(2).) Note: ● This bid limit increases every January 1. It is <u>\$114,800 in 2025</u>. ● This is <u>not</u> an annual bid limit, but a <u>contract</u> bid limit.
Equipment, Materials and Supplies: <u>\$114,800 & ABOVE</u>	These contracts must either be: ● Formally bid. See "Formal Bid Process" below; or ● Procured via one of the other applicable procurement processes in this table (e.g., piggyback, LPAs, etc.)	● This bid limit increases every January 1. It is <u>\$114,800 in 2025</u>. ● This is <u>not</u> an annual bid limit, but a <u>contract</u> bid limit.
Equipment, Materials and Supplies: Piggyback Contracts	If the District finds, or a vendor provides, a current, valid "piggyback" contract with another <u>California</u> public entity, for the specific item(s) the District is seeking, the District may procure those item(s) under the piggyback contract without any further procurement steps, at or below the cost indicated in that piggyback contract. District staff should only utilize a "piggyback" contract with the assistance of legal counsel.	<i>"[T]he governing board ... without advertising for bids, if the board has determined it to be in the best interests of the district, may authorize by contract, lease, requisition, or purchase order, any public corporation or agency, including any county, city, town, or district, to lease data-processing equipment, purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner in which the public corporation or agency is authorized by law to make the leases or purchases[.]"</i> (PCC §20118.) Note: ● The District cannot piggyback for services, but the procurement of the "thing" can include "incidental" services.

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EQUIPMENT, MATERIALS & SUPPLIES		
	Process and Procedures	Applicable Law & Notes
Equipment, Materials and Supplies: Leveraged Procurement Agreements	If the District finds, or a vendor provides, a current, valid contract that the California Department of General Services ("DGS") has listed on its "leveraged procurement agreements" ("LPA") webpage for the specific item(s) the District is seeking, the District may procure those item(s) under that LPA without any further procurement steps, at or below the cost indicated in that LPA. If the procurement includes installation components that approach 30% of the contract price or \$200,000, District staff should seek the assistance of legal counsel.	<i>"The [DGS] may make the services of the department available, upon the terms and conditions agreed to, to any . . . district . . . empowered to expend public funds for the acquisition of goods, information technology, or services for assisting the agency in acquisitions conducted pursuant to [this section]."</i> (PCC §10298(b).) PCC section 10299 has similar provisions specifically for school districts' <i>"acquisition of information technology, goods, and services."</i> Note: • The District cannot use LPAs for services, but the procurement of the "thing" can include "incidental" services. • Most LPAs are California Multiple Award Schedule ("CMAS") agreements.
Equipment, Materials and Supplies: Out of State Cooperative Purchasing Contracts	If the District finds, or a vendor provides, a current, valid contract that an out-of-state entity from an established third party cooperative (e.g., npp.gov, Omnia, PEPPM, etc.), the District may procure those item(s) under that "cooperative purchasing" contract without any further procurement steps, at or below the cost indicated in that contract. <u>These purchases are not controlled by a bid limit and no procurement process is statutorily required. Even so, if:</u> • <u>The cost is expected to exceed \$50,000 or</u> • <u>The procurement includes installation components that approach 30% of the contract price or \$200,000.</u> <u>District staff will consult</u> with legal counsel on the structure and provisions of that particular contract.	

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EQUIPMENT, MATERIALS & SUPPLIES		
	Process and Procedures	Applicable Law & Notes
"Computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus"	The District can procure these items through the "Equipment, Materials and Supplies" Process and Procedures. Alternatively, the District can procure these items through a request for proposal ("RFP") process. See "RFQ/RFP Process" below. This also requires a specific Board finding that this "particular procurement qualifies" under the statutory structure in PCC §20118.2.	School districts may procure these items through an RFP process and should consider, in addition to price, the following in the award of those contracts: <i>"price, vendor financing, performance reliability, standardization, life-cycle costs, delivery timetables, support logistics, ... competing products and materials available, fitness of purchase, [and] manufacturer's warranties."</i> (PCC §20118.2.) Note: Requires a newspaper advertisement twice, at least 10 days prior to receipt of proposals
Educational Materials	These purchases are not controlled by a bid limit and no procurement process is statutorily required. Even so, District staff should take reasonable steps to: - Seek prices (proposal, invoice, estimate, price sheet, etc.) from multiple different vendors for the item(s) the District is purchasing; - Review and evaluate vendors' websites, references and qualifications; - Select a potential qualified vendor that provides the best value to the District at a reasonable price; and - Ensure the Board considers, selects and evaluates those items through the District's process outlined in Board Policy and Administrative Regulation 6161.1.	<i>"Any school district may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids."</i> (PCC §20118.3.)
Food / Perishables	These purchases are not controlled by a bid limit and no procurement process is statutorily required. Even so, District staff should take reasonable steps to: - Seek pricing (proposal, invoice, estimate, price sheet, etc.) from three (3) different vendors for the item(s) the District is purchasing; and - Select the most appropriate food item while ensuring quality and safety.	<i>"Perishable foodstuffs and seasonal commodities . . . may be purchased . . . in accordance with rules and regulations for such purchase adopted by the governing board of [a school district] notwithstanding any provisions of [the Education Code] in conflict with such rules and regulations."</i> (Ed. Code § 38083.)

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Formal Bid Process

- **Ad.** Publish the notice inviting bids at least twice in a “*newspaper of general circulation*” (PCC §20112), with the first being “*at least 14 calendar days before the date of opening the bids*” and in “*all construction trade journals specified in Section 22036 ...at least 15 calendar days before the date of opening the bids*” (PCC §22037). The advertisement must include the following, some of which is only required for construction contracts.
 - Description of work to be done (PCC §20112);
 - Time and place of bid opening (PCC §20112);
 - Application of alternates in selection of the low bidder (PCC §20103.8);
 - Mandatory job walk, if any (PCC §6610);
 - Substitution of securities (PCC §22300);
 - Required contractor’s license to perform the work (PCC §3300);
 - Prevailing wage and registration requirements (Labor Code §§ 1720 et seq. and 1725.5);
 - Sole sourced products if any (PCC §3400).
 - Bid bond equal to ten percent (10%) of contract price is required for construction contracts, but is not statutorily required (and is rare) for non-construction contracts. It must have notary certificate, power of attorney, and certificate of authority of signer. (PCC §20111.)
- **Award.** The District must award the contract to the lowest responsive, responsible bidder (price only), or reject all bids.
- **Bid Splitting.** “It shall be unlawful to split or separate into smaller work orders or projects any work, project, service, or purchase for the purpose of evading the provisions of this article requiring contracting after competitive bidding.” (PCC §20116; emphasis added.)

Informal Bid Process [2025 Thresholds]

This process is only applicable for CUPCAA contracts between \$75,000 and \$220,000, as that amount is periodically adjusted by the State.

- Mail, fax, and/or email notice inviting bids at least 10 days before bids due to all applicable contractors on the District’s CUPCAA list, specified trade journals, or both.
 - Notice should describe project in general terms with information for how to obtain detailed information and time and place for submission of bids.
 - Will often include site walk, where appropriate.
 - Notice need not include drawings, plans, etc., unless required for preparing bid.
 - Governing Board may delegate authority to award informal contracts to specific staff members.
 - If all bids received exceed \$220,000, Governing Board may pass four-fifths resolution awarding contract at \$235,000 or less to lowest responsible bidder if it determines District’s cost estimate was reasonable.
- **Award.** The District must award the contract to the lowest responsive, responsible bidder (price only), or reject all bids.
- **Bid Splitting.** “It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.” (PCC §22033; emphasis added.)

RFQ/RFP Process

- **RFQ.** A request for qualifications (an “**RFQ**”), when permitted, is to solicit statements of qualifications from vendors for a particular service or item.
- **RFP.** A request for proposals (an “**RFP**”) when permitted, is to solicit proposals from vendors for a particular service or item. An RFP usually asks for information in addition to a cost proposal.
- **RFQ/RFP.** Many times, these two steps can be combined into one step.
- **Selection.** The selection criteria in RFQs and RFPs is more than price and the District can award a contract based also on an evaluation and/or scoring of qualifications in addition to price. This is sometimes termed a “best value” process.
- **Solicitation.** RFQs and RFPs need not be formally advertised, unless a specific statute requires that. Most RFQs and RFPs can be sent (emailed) to potential vendors to solicit responses.
- **Scoring.** While not required in all settings, District staff should determine the selection criteria and the weight (score) that is possible for each criteria. Evaluation and scoring, including possibly interviews, should be done by at least 3 District staff members, and other potential evaluators as determined by District staff.

Delegation

On November 7, 2024, the District’s Board adopted Resolution No. 06-110724, which granted authority to the District’ Superintendent, and/or their designee, to award contracts for services, equipment, materials and supplies, with the following conditions:

- **Student Services.** No limit for classroom-based services for individual students, services related to IEPs, or other special education services
- **Construction.** \$220,000 limit for construction, repair or maintenance services
- **Services.** \$50,000 limit, per vendor per year, for all other services
- **Products.** Up to the current bid limit for equipment, materials and supplies (\$114,800 in 2025)

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Those contracts must then be approved or ratified by the Board. All other contracts must be brought to the Board for approval. (Educ. Code §17604.)