

NORTH ADAMS JEROME PUBLIC SCHOOLS
Procurement Procedures

I. Definitions.

- A. Contract: For the purposes of these procedures, a contract is an agreement, subgrant, subcontract, or any other arrangement, such as a purchase order, that sets up a relationship in which North Adams Jerome Public Schools (NAJ) promises funds, goods or services in exchange for goods or services from the other party.
- B. Customer: A customer is either an employer or an individual who receives or requests services, training or information offered by NAJ.
- C. Procurement: For the purposes of these procedures, procurement means the process of selecting vendors or subrecipients. For example, selection of an office supply company would constitute procurement. The purchase of pencils from that company after the selection process has been completed would not constitute “procurement” as covered under these procedures.
- D. Service Provider: A service provider is an entity that delivers educational, training, employment, supportive, or other authorized services to customers either directly or through subcontract. A service provider may be a subrecipient or a vendor.
- E. Subrecipient: A subrecipient is a contractor that provides program services to customers directly or through a subcontractor(s), and meets at least one of the following criteria.
1. It does not offer similar services to the general public for a fee.
 2. It makes case management, eligibility, suitability, or program decisions regarding the customers.
 3. It is required by the contract to comply with all funding source regulations.
 4. Its performance is measured against funding source performance standards.
- F. Vendor: A vendor is an entity that provides general goods or services to NAJPS. Distinguishing characteristics of a vendor include such things as: providing the goods and services within normal business operations, providing

similar goods and services to the public, and operating in a competitive environment.

- G. General Definitions: The definitions contained in relevant funding source laws, regulations and guidelines including state instruction letters are incorporated as part of these Procurement Procedures.

II. Procurement in General.

- A. In addition to the requirements of this policy, NAJ and staff will ensure that ALL procurements are processed to ensure fair and open competition for all interested bidders/vendors and to ensure that fairness and impartiality is afforded throughout the process and to be clear of all conflict of interest. All relevant federal and state procurement regulations will be followed including but not limited to:
1. Policies and procedures employed for procurement of non-Federal funds.
 2. Federal and state laws
 3. OMB Guidelines and Standards in Section 34.CFR80.36(b)
- B. The procurement process consists of steps and events that are carefully implemented to result in: The fulfillment of needs and on a timely basis at a fair and reasonable price. An overview of the process entails a number of procedural requirements that at a minimum include:
1. Cost and/or price analysis will be completed for procurements in excess of \$500.00. Two quotes will be required is more than \$500.00 and less than \$25,000.00. A written justification may accompany a cost or price analysis when indicated;
 2. All procurements will be implemented in a manner to ensure fair and open competition;
 3. An independent estimate will be prepared, and/or research will be done to ensure a baseline of cost estimates and to avoid purchases that are unnecessary or duplicative;
 4. All specifications and RFP's/Q's must be clearly articulated and in alignment with procurement policies;
 5. Review of proposals will be predicated on criteria as outlined in the RFP/Q and will follow procurement policy guidelines and be mindful not to restrict competition;
 6. Efforts will be made to outreach to female and minority owned business, and small business firms;
 7. Refrain from requiring the use of brand names;
 8. Seek to the extent practical products that adhere to environmental conservation and energy efficiencies;
 9. Methods for acquisition of equipment, building space or related facilities, as well as the selection of service providers;

10. Provisions for leases and contracts and a leaser versus purchase will be conducted to ensure cost reasonableness;
11. NAJPS will utilize intergovernmental agreements for purchase of goods if costs are competitive and will access federal excess or surplus if available;
12. Will use value engineering clauses in contracts that only deal with contraction projects of sufficient size to provide an increase in cost savings;
13. Time and material contracts will be used ONLY after a determination is made that no other contract will be suitable. The contract will include a ceiling price that contractor exceeds at its own risk;
14. Will use, to the extent practicable and economically feasible, products and services dimensioned in the metric system of measurement;
15. Provisions which prohibit conflict of interest and discrimination (see Conflict of Interest Policy) will be followed and code of conduct will be utilized throughout the procurement process;
16. Allow for disputes or complaints to be handled through the NAJ complaint/grievance/appeal system;
17. Methods are implemented to ensure sub recipient compliance with the terms and conditions of contractor purchase orders and awards made to responsible sub recipients. Contract administration begins immediately at the close of the procurement;
18. Procedures for inventory, record keeping, and reporting to show history of each procurement;

III. Procurements in Detail.

- A. In its procurement process, NAJ shall not unlawfully discriminate on the basis of race, sex, age, color, religion, national origin, disability, marital status, height, weight, or political belief. NAJ shall take all necessary affirmative actions to assure that public solicitations and bidders lists include small businesses, minority-owned firms, women's business enterprises, labor surplus area firms. The following are possible affirmative steps:
 1. Placement of qualified small and minority businesses and women's business enterprises on solicitation lists.
 2. Small and minority businesses and women's business enterprises are solicited whenever they are potential sources.
 3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises.
 4. Establishing delivery schedules, where the requirements permits, which encourage participation by small and minority businesses and women's business enterprises.

5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.
 6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in the Common Rule .36(e)(2)(i) through (v).
 7. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
 8. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
 9. Encourage contracting with consortiums of small businesses, minority-owned firms, and women's business enterprises.
- B. NAJ shall make no grant expenditure for duplicate facilities and services which are otherwise available without cost to the program unless the board of education determines that grant funded services or facilities would be more effective or more likely to achieve performance goals.
- C. No procurement shall be awarded to any party that is debarred, suspended or otherwise disqualified under relevant funding source regulations. Awards will be made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. (<http://www.epls.gov>)
- D. Cost Plus Percentage of Cost Contracts is prohibited.
- E. All procurements shall require a pre-bid price estimate as defined below.
- F. All procurements shall be conducted to allow full and open competition to the greatest extent practicable. The following practices are prohibited.
1. Unreasonable requirements to qualify as a bidder.
 2. Requirement of unnecessary experience or excessive bonding.
 3. Noncompetitive pricing practices (collusion).
 4. Retainer contracts.
 5. Organizational conflict of interest.

6. Specifying only brand names without allowing “or its equivalent” or without describing the characteristics or performance of the goods or service.
 7. Unnecessarily restrictive specifications.
 8. Arbitrary decisions in the procurement process.
- G. All RFPs/Qs and other procurement solicitations shall describe the requirements which offerors must fulfill in the procurement process, and the factors to be used in evaluating the offers.
 - H. All RFPs/Qs and other procurement solicitations shall contain a clear and accurate description of the technical requirements (including quantity). The description shall not contain features that restrict competition.
 - I. All RFPs/Qs and other procurement solicitations will include a description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
 - J. All RFPs/Qs and other procurement solicitations will include the specific features of “brand name or equal” descriptions that bidders are required to meet when such items are included in the solicitations.
 - K. All RFPs/Qs and other procurement solicitations will include the acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
 - L. All RFPs/Qs and other procurement solicitations will include preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.
 - M. All grant funded transactions between NAJ and any state or local government entity such as state departments, counties, cities, townships, public school districts, public colleges, or consortiums of those organizations must be on a cost reimbursement basis.
 - N. All RFPs/Qs and other procurement solicitations will include the acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
 - O. Conflict of Interest:

1. NAJ employees shall comply with the NAJ conflict of interest policies and with all applicable grant and legal requirements regarding conflict of interest.
 2. NAJ Board members shall comply with the conflict of interest policies, applicable bylaws, and all applicable grant and legal requirements regarding conflict of interest.
- P. When procuring service providers, proper consideration shall be given to Community based organizations.
- Q. When seeking a service provider solely for educational services, NAJ shall make the award to an appropriate local public education agency (ies), so long as all other procurement criteria are satisfied, unless NAJ demonstrates in writing that another agency (ies) would be more effective or would have greater potential to enhance the customers' continued education or career growth.
- R. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other analysis to determine the most economical approach.
- S. NAJ will adhere to a process that promotes the use of intergovernmental agreements for procurement or use of common goods and services, as well as, the use of Federal excess and surplus property wherever possible.
- T. NAJ will maintain records sufficient to detail the significant history of all procurements. At a minimum, these records will include rationale for the method of procurement, selection of contract type, contractor selection or rejection criteria, and the basis for the contract price, including the independent estimate of price.
- U. NAJ will have a settlement process in place for all contractual and administrative issues arising out of the procurements. These include, but are not limited to, source evaluation, protests, disputes, and claims. Violations of law must be referred to the appropriate local, State, or Federal agency having jurisdiction.

IV. Types of procurement:

- A. Small purchase competition is defined as procurements for which the pre-bid estimate is greater than \$500.00 and less than \$25,000.00 in the aggregate, and the final accepted bid is less than \$25,000.00 in the aggregate. A minimum of 2 quotes are needed if greater than \$500.00 and

less than \$25,000. If purchase is more than \$25,000 a minimum of 3 quotes or RFP (Request for Proposal)

1. All bids must be submitted in writing on the bidder's letterhead or verbally by reference to a catalog price.
2. Potential bidders shall be identified from NAJ bidder's lists, funding source, or local government bidder's lists, or public lists such as the "Yellow Pages" or Internet.
3. In all small purchase procurements, NAJ shall attempt to solicit bids from two or more prospective bidders.
4. Reliance on current local, state or federal government procurement is permissible.
5. NAJ may negotiate with the selected bidder(s), if any, in order to make the best deal possible for its program and customers in terms of quality, quantity and cost. Board approval is not required for entry into negotiations.
6. If NAJ chooses, it may award a contract directly from the solicitation process without negotiations. Board approval is not necessarily required for entry into a contract.

B. Large purchase competition is the method used for procurement when the pre-bid estimate or the final contract is greater than \$25,000.00, as required by State Statute.

- 1) Procurement will be conducted through a Request for Proposals or a Request for Quotations.
 - a. In a Request for Proposals, NAJ makes a general description of the service to be procured, and requests the bidders to offer detail and information regarding their ability to perform, along with a price.
 - b. In a Request for Quotations, NAJ makes a more specific description of the services to be procured, and requests the bidders to provide information regarding their ability to perform, along with a price.
 - c. Competitive bids are not required for food purchases, unless food purchased is in a single transaction costing \$100,000 or more.

- d. Pre-bid meeting followed by bid opening in public setting with 2 members of the district must be present. Bids will be opened by the Superintendent and his designee. After analysis by Superintendent and his designee, bids are awarded and contractors are notified.
 - e. After bids are awarded Bids will be kept on file in the Business Office.
- 2) Certain provisions are required in all RFP/Qs. They include:
- a. An equal opportunity/ADA statement
 - b. A statement that NAJ may reject or accept any or all bids or portions of bids.
 - c. A statement that NAJ shall not be responsible for the bidders costs in developing the bid.
 - d. A statement that proposals may be accepted without negotiations or that NAJ may require negotiations and/or appearances before the appropriate board.
 - e. A clear statement of the specifications, including quantity.
 - f. Solicitations will include a description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
 - g. Solicitations will include the specific features of “brand name or equal” descriptions that bidders are required to meet when such items are included in the solicitations.
 - h. Solicitations will include preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.
 - i. A process to ensure all pre-qualified lists of persons, firms, etc. that are used in acquiring good and services are current and include enough qualified sources to ensure maximum open and free competition, Including, a process for potential bidders to qualifying during the solicitation period.

- j. Solicitations will include the acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
 - k. A clear statement of the instructions for completing and submitting the bid, including deadlines and numbers of copies.
 - l. A summary description of how the proposals will be scored.
 - m. A statement that all disputes will be resolved through NAJ grievance procedures.
- 3) RFP/Qs will be advertised in a newspaper(s) of general local circulation. At NAJ's discretion, it may maintain a list of potential bidders and notify them when RFP/Qs are available. Advertisements shall encourage minority and female owned businesses to apply.
 - 4) Depending on the complexity of the purchase, NAJ may conduct a bidder's conference and/or may interview bidders.
 - 5) Reliance on a current local, State or Federal Government procurement is permissible.
 - 6) NAJ may negotiate with the selected bidder(s), if any, in order to make the best deal possible for its program and customers in terms of quality, quantity and cost. Approval by the appropriate board(s) is required for entry into negotiations. Board approval allows staff to negotiate and sign the final contract. If an agreement is not reached during negotiations, no award is made to that bidder.
 - 7) If NAJ chooses, it may award a contract directly from the RFP/Q process without negotiations. Approval by the board of education is required for entry into a contract.
 - 8) NAJ will have protest procedures in place to handle and resolve disputes relating to both the award and administration of their contracts. Protest procedures will have available remedies and the information related to the protest, must, in all instances, be disclosed to the awarding agency.
 - 9) NAJ will only use time and material contracts only after a determination that no other contract is suitable and only if the contract includes a ceiling price that the contractor exceeds at its own risk.

C) Sole source is defined as solicitation of a proposal/bid from only one source, funding of an unsolicited proposal, or funding a proposal after attempted competitive procurement results in inadequate competition. It can be used in place of any other type of procurement, but only when all of the following conditions are met.

1. Written concurrence of the Business Services Coordinator is required;
2. Its use shall be minimized to the extent practicable;
3. The rationale for the decision to use sole source procurement must always be justified and documented in writing;
4. It can only be done when competition is not practicable; and
5. Only when at least one of the following circumstances applies:
 - a. The services or goods are available only from one source;
 - b. Public exigency or emergency does not permit the delay resulting from competition;
 - c. The government funding source authorizes noncompetitive procurement or the private funding source does not prohibit it; or
 - d. After competitive solicitation, competition is determined to be inadequate. Competition shall be deemed to be inadequate if fewer than two bidders respond.

V. **Cost or Price Analysis.** A cost analysis, price analysis, or both is required for procurements in excess of \$500.

- A. As part of this process, a written pre-bid price estimate of the total cost is documented prior to letting any RFP/Q or other solicitation.
- B. Cost analysis is defined as the review and evaluation, element by element, of the proposed line item budget for the purpose of pricing a contract.
 1. Cost analysis is required when at least one of the following conditions is met:
 - a. The bidder is required to submit a line item budget;
 - b. Adequate price competition is lacking; or

- c. The procurement is on a sole source basis, including contract modifications that increase the amount of funding or change the services to be provided.
 - 2. However, even if the above factors are met, a cost analysis is not required if either of the following conditions exist.
 - a. Payment is made by fixed unit price(s), price reasonableness can be established by catalog or market price of a commercial product sold in substantial quantities to the general public, and NAJ does not require a line item budget; or
 - b. The price is set by law or regulation.
 - 3. As part of the cost analysis process, each contract shall require the bidder to certify that, to the best of its knowledge, the cost data are accurate, complete and current at the time of agreement on the price. The contract shall make clear that NAJ is entitled to price adjustments if the bidder knowingly submitted cost data that are not accurate, complete or current.
- C. Price analysis is defined as the process of examining and evaluating whether a price is reasonable without looking at the cost elements or profit which may be included in the price. It is required for every successful bid, proposal or procurement. It is not required for unsuccessful proposals, bids, or other procurements.
 - iv. The contractor's investment;
 - v. The quality of the contractor's past record of performance;
 - vi. Industry profit rates in the surrounding geographic area for similar work; and
 - vii. Market conditions in the surrounding area.

VII. Procurement of Subrecipients.

- 1) All provisions of these Procurement Procedures apply to the procurement of subrecipients. The specific requirements in this section are in addition to the other provisions.

2) The primary consideration in the procurement of subrecipients shall be the bidder's effectiveness in delivering comparable or related services based on demonstrated performance in terms of the likelihood of meeting required:

- 1) Performance goals,
- 2) Costs,
- 3) Quality of training, and
- 4) Characteristics of customers.

C. In procuring a sub recipient, NAJ must determine in writing that the successful bidder has demonstrated the ability to perform under the conditions of the contract. This determination must include consideration whether the bidder can satisfy the following concerns.

1. Adequate financial resources or the ability to obtain them.
2. The ability to meet the program design specifications at a reasonable cost, as well as the ability to meet performance goals.
3. A satisfactory record of past performance including, if applicable, demonstrated quality of training, reasonable dropout rates, the ability to provide for appropriate supportive services (including child care), retention in employment, and earning rates of customers.
4. A satisfactory record of integrity, business ethics, and fiscal accountability.
5. The necessary organization, experience, accounting and operational controls.
6. The technical skills to perform the work.
7. For organizations that provide training, the organization's record of retention in training, training completion, job placement, and rates of licensure.

VII. Training and Consequences. At the beginning of each school year North Adams-Jerome Public School will conduct training. Noncompliance with these procedures will make the employee subject to the Districts' progressive discipline policy up to and including dismissal.

