

## **R277. Education, Administration.**

### **R277-122. Board of Education Procurement.**

#### **R277-122-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Title 63G, Chapter 6a, Utah Procurement Code.
- (2) The purpose of this rule is to adopt and incorporate by reference Title R33, Purchasing and General Services, with exceptions as described in this rule.

#### **R277-122-2. Definitions.**

- (1) "Professional service provider" means a provider of a professional service as defined in Section 63G-6a-103 and includes an expert in educational instruction and teaching.
- (2) "Responsible" means the same as that term is defined in Section 63G-6a-103.
- (3) "Responsive" means the same as that term is defined in Section 63G-6a-103.

#### **R277-122-3. Incorporation of Title R33 With Exceptions.**

- (1) The Board adopts and incorporates by reference Title R33, Purchasing and General Services, as in effect on April 1, 2022, with the exceptions described in this section.
- (2) The Board does not adopt Section R33-8-101b.
- (3) The Board adopts Section R277-122-5 in place of Sections R33-5-104 and R33-5-107.
- (4) The Board adopts Section R277-122-6 in place of Section R33-5-108.
- (5) The Board adopts Section R277-122-7 in place of Sections R33-9-102 and R33-9-103.

- (6) The Board adopts Section R277-122-8 in place of Section R33-12-201.
- (7) The Board adopts Section R277-122-9 in place of Section R33-12-608.

**R277-122-4. Head of the Procurement Unit Designated.**

The Board designates the Board's Director of Purchasing as the head of the procurement unit.

**R277-122-5. Small Purchases of Procurement Items Other than Professional Services and Consultants.**

(1) The head of the procurement unit shall make small purchases in accordance with the requirements set forth in Section 63G-6a-506 and this Section R277-122-8.

(2) Unless otherwise required as part of another standard procurement process being used in conjunction with a small purchase, the head of the procurement unit need not utilize a solicitation or provide public notice to conduct a small purchase.

(3) The head of the procurement unit may make a small purchase of a procurement item other than a professional service by:

(a) direct award without seeking competitive bids or quotes up to the following threshold amounts:

(i) \$10,000 for one or more procurement items purchased at the same time from one source; and

(ii) \$75,000 for multiple procurement items purchased in a 12-month period from one source; and

(b) subject to Section R33-4-109, obtaining quotes from a minimum of two vendors and purchasing the procurement item from the responsible vendor offering the lowest quote for a purchase of up to \$100,000 for one or more procurement items purchased at the same time from a single source.

(4) When conducting a purchase under Subsection (3)(b) in conjunction with an approved vendor list, the head of the procurement unit:

(a)(i) may obtain quotes from all the vendors on the approved vendor list; or

(ii) may obtain quotes from a minimum of two vendors on the approved vendor list, using one or more of the following methods to select vendors from whom to obtain quotes:

(A) a rotation system, organized alphabetically, numerically, or randomly;

(B) the geographic area serviced by each vendor;

(C) each vendor's particular expertise or field;

(D) solicitation of an additional quote from the vendor that provided the lowest quote on the most recently completed procurement conducted by the Board using the approved vendor list; or

(E) another method approved by the head of the procurement unit;

(b) shall document that all vendors on the approved vendor list have a fair and equitable opportunity to obtain a contract; and

(c) shall purchase the procurement item from the responsible vendor on the approved list offering the lowest quote.

(5) When practicable, the head of the procurement unit shall use a rotation system or other system designed to allow for competition when using a small purchase process.

(6) In the process of obtaining a competitive quote, the head of the procurement unit shall record and maintain the following as a government record:

(a) the names of the vendors from whom quotes were requested and received;

and

(b) the date of receipt and amount of each quote.

(7) The head of the procurement unit shall comply with all applicable laws and rules in the conduct of small purchases, including:

(a) Subsection 63G-6a-506(8);

(b) Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties; and

(c) Sections R33-24-104 through R33-24-106.

**R277-122-6. Small Purchases of Professional Service Providers and Consultants.**

(1) The head of the procurement unit shall make small purchases of professional services in accordance with the requirements set forth in Section 63G-6a-506 and this Section R277-122-11.

(2) Unless otherwise specifically required in this rule or as part of another standard procurement process being used in conjunction with a small purchase, the head of the procurement unit need not utilize a solicitation or provide public notice to conduct a small purchase of professional services.

(3) The head of the procurement unit may procure professional services:

(a) up to a maximum of \$10,000 by direct negotiation with any professional services provider or consultant determined in writing by the head of the procurement unit to be qualified to provide the professional service; and

(b) up to a maximum of \$175,000 by:

(i) subject to Section R33-4-109, obtaining quotes from a minimum of three professional services providers or consultants determined in writing by the head of the procurement unit to be qualified to provide the professional services; and

(ii) making the purchase from the professional service provider or consultant determined in writing by the head of the procurement unit to provide the Board with the best value, comparing qualifications and price.

(4) The head of the procurement unit may utilize the process set forth in Subsection (3)(b) to make purchases from multiple professional service providers or consultants if:

(a) multiple professional service providers or consultants of the same type are required to fulfill the need for the professional service;

(b) the total amount awarded to the selected professional service providers or consultants does not exceed \$250,000;

(c) a request for qualifications and quotes is published in accordance with Section 63G-6a-112;

(d) the request for qualifications and quotes states that the Board may make a purchase from multiple professional service providers or consultants; and

(e) all responses received are reviewed and considered when selecting the best value professional service providers or consultants.

(5) The head of the procurement unit shall comply with all applicable laws and rules in the conduct of small purchases for professional services, including:

- (a) Subsection 63G-6a-506(8);
- (b) Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties; and
- (c) Sections R33-24-104 through R33-24-106.

**R277-122-7. Cancellation Before Award.**

- (1) A solicitation may be cancelled prior to a contract award if:
  - (a) the Board does not receive any responsive responses to the solicitation; or
  - (b) the head of the procurement unit determines the cancellation is:
    - (i) in the best interest of the Board; and
    - (ii) supported by a reasonable and good faith justification.
- (2) The head of the procurement unit shall include notice of the Board's right of cancellation described in Subsection (1) in each Board solicitation.
- (3) A solicitation may be re-issued:
  - (a) with or without modification, if cancelled pursuant to Subsection (1)(a); or
  - (b) with modification, if cancelled pursuant to Subsection (1)(b).

**R277-122-8. Establishment of Terms and Conditions.**

The head of the procurement unit shall develop standard terms and conditions for use with Board contracts and agreements.

**R277-122-9. Use of Federal Cost Principles.**

The head of the procurement unit shall apply the federal cost principles described in 2 CFR Part 200, Subpart E in determining which costs expended under Board contracts are reasonable, allocable, and allowable.

**KEY: procurement, efficiency**

**Date of Last Change: July 22, 2022**

**Notice of Continuation: May 16, 2022**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 63G-6a**