

Administrative Procedure 515

PROCUREMENT AND CONTRACTS

Background

The purpose of this Administrative Procedure is to ensure that the procurement of goods and services provides the best value to the Division and is undertaken in an open, fair, ethical and competitive manner while remaining in full compliance with legislation.

Definitions

1. Alberta Purchasing Connection (APC): is an online tool created by the Alberta government that lets public and private sector users manage, advertise, distribute, and download public purchasing opportunities for goods, services, and construction in Alberta.
2. Conflict of Interest: occurs when, in performing employment duties, employees can be or appear to be influenced to make a decision that benefits them personally.
3. Construction Services: are construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other civil engineering or architectural work, but does not include professional consulting services related to the construction contract unless they are included in the procurement.
4. Consultant: is a person who or organization that provides services or expert advice in a particular area, such as construction, engineering, auditing, research, or banking, and is not typically considered an employee.
5. Contract: is a legally enforceable business agreement between two or more parties with mutual obligations. A contract may: define procurement of goods and services; define funds (revenue or grants) to be received from a third party; include memoranda of understanding (MOU) or letters of understanding (LOU); and/or have a zero, or null, dollar value. A contract is intended to define responsibilities (actions) or deliverables between the parties.
6. Employment Personal Services Contract: is a legal agreement, in which the skills or talents of an individual are material (i.e. professional services), between an individual employee and an employer that clarifies the terms and conditions of employment. Payments to the individual are handled through Payroll.
7. Goods: are tangible items generally sold or offered for sale in the commercial marketplace.

8. *Preferred Vendor*: is a vendor that has been qualified through an open, fair and transparent process and is deemed to represent the best value to the Division.
9. *Procurement*: is the act of finding, acquiring and buying goods, services, or works from an external source, often via a tending or competitive bidding process to ensure the Division receives goods, services, or works for the best possible price, when aspects such as quality, quantity, time, and location are compared.
10. *Purchase Order*: is a buyer-generated document that authorizes a purchase transaction.
11. *Request for Proposal (RFP)*: is an official bidding process where documents with statement of work are posted on APC.
12. *Services*: are activities or support provided by another person or organization in exchange for a fee.
13. *Single Source*: occurs when a contract for supplies, equipment, services and consulting services is awarded without competition. This may occur when competition for procurement is not feasible because of the nature of a commodity, a particular specification or urgency.
14. *Sole Source*: any contract entered into without a competitive process, based on justification that only one known source exists or that only one single supplier can fulfill the requirements.

Procedures

1. This Administrative Procedure applies to all individuals who are involved in the procurement process.
2. Employees who are involved in the procurement process shall be aware of and refer to all relevant Division administrative procedures and processes as well as external legislative requirements.
3. This Administrative Procedure applies to the procurement of all goods and services acquired with any Division-administered funds - operating, capital or school generated.
4. All items purchased with Division funds will become the property of the Division.
5. Notwithstanding this Administrative Procedure, staff shall bring any procurement to the attention of the Associate Superintendent, Business & Finance if that matter has an unusually high-risk factor, exposure to liability, impact on public profile or future operations, if it brings the activities of the Division under scrutiny or disrepute, or if it involves controversial matters.

Signing Authority

6. Procurement authority and limits are delegated to staff as per Administrative Procedure 514: Signing Authority. Authority levels must not exceed the maximum values as identified in Administrative Procedure 514 - Appendix - Signing Authority Matrix.

7. In applying the limits outlined in Administrative Procedure 514 - Appendix - Signing Authority Matrix, the total value is calculated based on the value of the purchase – over the term of the contract, excluding extensions – after taxes and freight, and valued in Canadian dollars.
8. All purchases must be approved by an appropriate signing authority. Prior to authorizing an expenditure, the signing authority shall confirm that:
 - 8.1. Sufficient funds remain within the relevant budget to fund the purchase;
 - 8.2. The purchase is necessary and appropriate; and
 - 8.3. The requirements of this Administrative Procedure have been followed.
9. Splitting or dividing the purchase of goods and services in order to avoid exceeding the authorized limits is prohibited.

Procurement Principles

10. Procurement shall be conducted with the objective of obtaining the best value for the Division taking into consideration such criteria as price, total cost of ownership, product or service quality, bid compliancy, supplier qualifications, experience and reputation.
11. To the extent that is reasonable, efficient and consistent with site-based management philosophy, the Division supports the concept of centralized purchasing to service the needs of schools and individual sites in the Division.
12. Procurement shall be conducted in an open, fair, non-discriminatory and transparent manner, and where legislation, Division policy or procedure dictate, follow a competitive procurement process.
13. Employees participating in procurement on behalf of the Division shall conduct themselves in an ethical manner, ensuring compliance with Division administrative procedures, in particular, Administrative Procedure 405 - Staff Conflict of Interest.
14. Employees shall not use their authority or office for personal gain (incentive packages, rebates or free gifts) while engaging in purchasing activities on behalf of the Division.
15. Employees may not purchase equipment, services or goods intended for Division purchases using a personal credit card in attempt to earn promotional or travel points or other benefits.
16. The purchase of goods and/or non-personnel services directly from Division staff members is not permitted without the approval of the Superintendent. A business or incorporated company, in which the staff member is the owner or majority shareholder, may do business with the Division as long as two additional quotes have been solicited by the Division, and the business/company provides the best value to the Division.

Procurement Process

17. The Division will abide by provincial and federal legislation as outlined in the Canadian Free Trade Agreement (CFTA), as well as the New West Partnership Trade Agreement (NWPTA), which includes the following thresholds:

- 17.1. \$75,000 or greater for goods;
- 17.2. \$75,000 or greater for services; and
- 17.3. \$200,000 or greater for construction.

18. The nature and dollar value of the procurement drive different procurement methodologies and competition requirements. All procurement will be conducted as per Appendix A – Procurement Methodology and Competition Matrix. Any exceptions must be approved by the Superintendent or Associate Superintendent, Business & Finance.
19. Division staff shall not reduce the overall value of procurement by dividing a single procurement into multiple procurements to circumvent competitive procurement thresholds.
20. If a contract or standing offer exists with a supplier who can supply the required goods or services, then these goods and/or services shall be ordered from the contracted supplier.
21. The Associate Superintendent, Business & Finance or designate shall be contacted to initiate the Request for Prequalification, Request for Proposal or Request for Tender.

Procurement Exceptions

22. All capital projects, such as building enhancements, shall be coordinated and approved by the Director of Facilities. Playground projects, including site location and design, must be approved by the Director of Facilities but will be coordinated by the school.
23. All building operation and maintenance for the Division is the responsibility of the Director of Facilities. Procurement for operation and maintenance services shall be in accordance with the requirements of Administrative Procedure 542 - School Facilities and Equipment Maintenance.
24. Purchasing of goods such as furniture, fixtures and equipment that result in physical changes to the Division buildings or facilities, requires the approval of the Director of Facilities.
25. Purchases involving the acquisition of technology, including communication technologies, shall meet the requirements of and be procured through the Technology Department. These purchases may include but are not limited to:
 - 25.1. Computers, tablets or peripheral supporting technology,
 - 25.2. Servers and other Technological Equipment,
 - 25.3. Projectors and digital displays,
 - 25.4. Gym audio equipment,
 - 25.5. Cell phones,
 - 25.6. Software; and
 - 25.7. Photocopiers.
26. The purchase of new computer software or computer hardware may require a privacy impact assessment.

27. The Associate Superintendent, Human Resources shall provide guidance in determining whether a contract is considered a consultant services contract or an employment personal services contract. Employment personal services contracts are outside the scope of this Administrative Procedure.

Vendors

28. In selecting vendors, consideration shall be given to:

- 28.1. Reputation and experience;
- 28.2. The ability to deliver or perform within the time specified in a safe and healthy manner;
- 28.3. The ability to provide after-sales maintenance and service; and
- 28.4. Past experience on previous orders.

29. In considering qualification of vendors for Services, the following criteria shall be met, where applicable:

- 29.1. Current business license;
- 29.2. Minimum of \$5 million commercial general liability insurance (in certain cases, at the discretion of the Associate Superintendent, Business & Finance, the Division may accept a minimum of \$2 million commercial general liability insurance); and
- 29.3. WCB coverage.

Sole or Single Source

30. The Division will employ an open, competitive process when required and whenever possible, to increase chances of achieving the greatest value for money. However, certain purchases may qualify for a sole source procurement. These purchases will be treated as an exception to the competitive procurement requirements of this procedure.

31. In the event the Division does not employ a competitive procurement process for purchases over \$20,000, a signed Sole Source Justification and Approval Form (Form 515-1) must be completed by the purchaser, stipulating the reason for the single-source or sole-source procurement.

32. Exceptions to the competitive bidding requirements shall not be for the purpose of avoiding competition or in order to discriminate against or favor specific suppliers. The Division requires competitive bidding of all purchases where practical and advantageous, however the following sets out when a sole- or single-source purchase can be made:

- 32.1. Health and social services;
- 32.2. Services provided by lawyers and notaries;
- 32.3. Treasury services (services relating to the borrowing, lending, investing or holding money, or other property);

- 32.4. Purchases from philanthropic institutions or persons with disabilities;
- 32.5. Purchases from a public body or non-profit organization;
- 32.6. Goods intended for resale;
- 32.7. Original manufacturer or provider (no other local distributors exist);
- 32.8. Parts or equipment not interchangeable with similar parts of another manufacturer;
- 32.9. Only local distributor for the original manufacturer or provider;
- 32.10. Only known item or services matching the requested needs or performing the intended task;
- 32.11. Only one firm is capable and available to do the work;
- 32.12. Sole provider of a licensed or patented good or service;
- 32.13. Sole provider of items compatible with existing equipment, inventory, systems, programs or services;
- 32.14. Sole provider of goods or services established as standard;
- 32.15. Sole provider of factory-authorized warranty service;
- 32.16. Used item representing good value and advantage;
- 32.17. Due to safety concerns;
- 32.18. Where an unforeseeable situation of urgency exists; and
- 32.19. Due to the nature of the work, it is not in the public interest to discuss requirements with another vendor.

Co-operative Procurements

33. Where appropriate, the Division may leverage working collaboratively with other boards and, where applicable, other public sector agencies, to develop co-operatives and shared services in order to aggregate demand to achieve economies of scale.
34. Where the Division is involved in such activities, procurements are to be made according to the procedures of the co-operate group, which may not be identical to that of the Division but shall be consistent with this Administrative Procedure.
35. Where appropriate, the Division may also leverage its internal buying power by aggregating similar purchases across various departments, schools, etc. in order to achieve economies of scale and create contracts offering greater benefits accessible to the entire Division.

Documentation

36. All purchases must be supported by an invoice or receipt that includes the following:
 - 36.1. Name and address of the vendor;
 - 36.2. GST number and GST amount, if applicable; and
 - 36.3. Terms of payment, if applicable.

37. Documents that are insufficient include:
 - 37.1. Vendor statements;
 - 37.2. Purchasing card or credit card slips that are not accompanied by a detailed receipt or invoice;
 - 37.3. Documentation that is too vague to support the purchase.
38. The expenditure authority (i.e. Principal, Department Supervisor or designate) making the purchase will ensure documents are properly coded, appropriately authorized and submitted to the Finance Department for payment within a reasonable time.
39. In the rare event that a receipt is lost or information is not legible on the receipt, Form 513-1 - Missing Receipt Documentation must be submitted.

Personal Purchases

40. Division procurement resources shall not be used for any personal or non-Division business-related acquisition of goods or services.
41. Suppliers may elect to extend pricing options to Division staff for their personal purchases of certain goods and services. While staff may take advantage of this option, they shall not use any Division resources for these purchases or support.

Purchases of Goods/Services between Schools and Departments

42. School to School: if two or more schools are selling/buying goods between each other, this will be done via a journal entry. The school purchasing the goods will submit a journal entry request to the Finance Department for review and processing.
43. Technology Department: when the Technology Department supplies or purchases goods on behalf of a school or department, the Technology Department will prepare an invoice and forward it to the Principal or Supervisor for approval and general ledger coding. The School or department will then submit the approved invoice to the Finance Department for processing.
44. Facilities Department: at the request of a school or department, the Facilities Department may perform work which will be invoiced to the individual school or department. Refer to Administrative Procedure 542 - School Facilities and Equipment Maintenance. The Facilities Department will prepare an invoice and forward it to the Principal or Supervisor for approval and general ledger coding. The School or department will then submit the approved invoice to the Finance Department for processing.

Contracts

45. Contracts shall be executed under the legal name of The Black Gold School Division or The Board of Trustees of Black Gold School Division. A site reference may be added if required.
46. No person shall enter into any contract unless:

- 46.1. The contract has been negotiated, reviewed and approved in accordance with this Administrative Procedure.
- 46.2. The individual has contract signing authority in accordance with Administrative Procedure 514 - Signing Authority.
47. Prior to entering into any contractual arrangements, signing authorities shall ensure all of the following criteria have been met:
 - 47.1. The contract is in the best interest of the Division;
 - 47.2. The contract has been reviewed from both a financial and a resource perspective by the appropriate authorities;
 - 47.3. The appropriate consultation has occurred with Division departments and/or schools which have an interest in the contract;
 - 47.4. The contract is operationally feasible;
 - 47.5. The contract is in accordance with any legislative or regulatory requirements, such as policies, guidelines, collective agreements or other obligations of the Division;
 - 47.6. Provision has been made for adequate indemnity, insurance and risk management plans, and other appropriate protections.
48. All contracts, irrespective of contract value, shall be reviewed and approved by the Associate Superintendent, Business & Finance if the:
 - 48.1. Contract presents a significant level of risk;
 - 48.2. Contract includes insurance, indemnity or waiver clauses;
 - 48.3. Contract could bring the Division under public scrutiny or affect its reputation;
 - 48.4. Contract involves controversial matters or potential conflict of interest; and/or
 - 48.5. Contract involves or is related to litigation or settlement claim, or include unusual legal provisions;
 - 48.6. Contracts with terms longer than three years.
49. All contracts shall be signed by the appropriate authority as outlined in Administrative Procedure 514 - Signing Authority and include the printed name of the contract signing authority as well as the date signed.
50. Once a contract has been approved and appropriately signed, Division staff administering the contractual arrangement shall ensure the Division and other contracting parties meet their respective obligations under the contract.
51. All changes to a contract shall be in writing and signed by the appropriate authority as outlined in Administrative Procedure 514 - Signing Authority.
52. All executed original copies of contracts shall be sent to the Administrative Assistant, Business & Finance to be filed centrally.

Reference: Section 52, 53 68, 85, 197, 222 and 229 Education Act
Freedom of Information and Protection of Privacy Act
School Buildings and Tendering Regulation 383/88
Agreement on Internal Trade; Annex 502.4
Trade, Investment and Labour Mobility Agreement

Form: 515-1 - Sole Source Justification and Approval Form
515-2 - Purchasing Card Program Application
515-3 - Purchasing Card Employee Agreement
515-4 - Purchasing Card Cardholder Change Request
513-1 – Missing Receipt Documentation