

# POLICY: PROCUREMENT

J PAUL TAYLOR ACADEMY

[www.jpaultayloracademy.org](http://www.jpaultayloracademy.org)

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J. Paul Taylor Academy (JPTA) will strictly adhere to all regulations established in Procurement Code, Section 13-1-21 through 13-1-199 NMSA 1978.

Procurement is defined as purchasing, renting, leasing, lease purchasing or otherwise acquiring item(s), services or construction.

This policy is designed to maximize the purchasing value of state and federal funds, provide safeguards for these funds and ensure fairness to all parties involved. JPTA will strictly adhere to the school's Conflict of Interest Policy in all procurement.

## I. Procurement

### A. Requirements

For items or services under \$20,000, JPTA will use the vendor providing the best price.

For items or services between \$20,000 and \$60,000, three quotes shall be obtained. Quotes may be obtained verbally or in writing. Quotes from three vendors for the specified items or services will be attached to the purchase requisition when obtained in writing, and notes documenting verbal quotes will be attached. A vendor failing to return a call or other lack of communication does not take the place of a quote. At no time can one vendor be told the quote of another vendor participating in the process. In lieu of obtaining three quotes, JPTA may use vendors with contracts that have been awarded by Cooperative Educational Services (CES).

Items and services exceeding \$25,000 must be approved by the GC. Employee contracts are excluded from this requirement.

### B. Process

1. To initiate procurement, an employee, Governance Council (GC) member, group of employees, or group of GC members will generate a purchase requisition for requested item(s) or services including the following information as applicable:
  - The item(s) or services requested and any quality specifications;
  - The reason for the request(s);
  - The address for the vendor with the lowest price or best quote;
  - The item number(s) or other information required by the vendor; and
  - The total cost of the item(s) or services including shipping.
2. When the item(s) or services requested further(s) the mission and goals of JPTA and are not divided in an illogical manner to prevent the necessity of securing quotes or bids, the Executive Director (ED) will approve the purchase requisition and submit to the Business Manager (BM) to authorize a purchase order (PO) to be generated.
3. If the item(s) or services do/does not further the mission and goals of JPTA, the ED will return the purchase requisition with an explanation.

4. If the ED is the requesting employee, a purchase requisition must still be generated for record keeping purposes insuring there is an explanation of how this purchase will further JPTA's mission and goals.
5. The BM will authorize and generate the PO, then provide it to the school Secretary after ensuring that sufficient funds exist in the appropriate account. The Secretary will keep a copy for her/himself in order to verify receipt of goods and/or services. A copy of the PO will be given to the originating staff member by the Secretary.
6. If the account has insufficient funds, the BM will inform the ED, and ED will notify the requesting employee.
7. If it is a local purchase, the employee will purchase the item(s) or services and provide the receipt to the Secretary, leaving the PO with the vendor. The Secretary will verify receipt of the purchase against the purchase order. S/he will then forward the receipt to the BM for payment and placement in records.
8. For out of town purchases, the purchase order will be mailed, faxed, or emailed to the vendor and the Secretary, upon receipt, will check the invoice against the purchase order. He/she will then forward the invoice to the BM for payment and placement in records.
9. The check for the items will be written and signed by two authorized signatures

## **II. Bidding**

When the requested services will exceed \$60,000 (exclusive of gross receipts tax), the following bidding/proposal process will be followed, with only the exceptions explained in Sections A-D below or if the vendor has a contract awarded by CES. In lieu of conducting the following bidding/proposal process, JPTA may use vendors with contracts that have been awarded by CES.

### **A. Emergency Procurement Exception**

An emergency for procurement purposes means a situation that creates a threat to public health, welfare or safety of one or more persons, or a threat to property as may arise due to floods, epidemics, riots, equipment failures or similar events.

The ED, with the advice of the GC when possible, will determine whether an emergency of this type exists at that time. As soon as it is practicable, the ED will document the conditions and decision making process which led to the determination that an emergency for procurement purposes existed.

He/she will work with the BM to implement the procurement process. The procedure for the procurement must assure that the related services, construction or items are procured in time to address the emergency. Within this constraint, as much competition as is practicable will be provided.

Emergency procurements are limited to those services, construction or items necessary to meet the emergency.

### **B. Sole Source or Sole provider Exception**

A contract can be awarded under this exception without competitive bids or proposals when the ED makes a written determination, after conducting a good-faith review of available sources and consulting with the BM, that there is only one source for the required item(s) construction or services. When any doubt exists, competition will be solicited.

The BM will maintain records of sole source procurement for at least three years. These records must include:

- The contractor's name and address;
- The amount and terms of the contract;
- A listing of the services, construction or item(s) procured under the contract;
- The justification for the use of this procurement method.

### **C. Procurement Under Existing Contract Exception**

A procurement can proceed under this exception when the procurement is under existing contracts, the price is equal to or less than the existing federal, state or central purchasing office agreement and the total quantity does not exceed that which may be purchased at this price.

### **D. Purchase from Anti-poverty Program or Business Exception**

Purchasing from a program or business in this category is allowed to proceed without bidding.

### **BIDDING PROCEDURE as governed by the NM Procurement Code**

When JPTA must obtain a bid, the BM and ED (with legal assistance as necessary) will prepare an invitation for bids (IFB) meeting the following criteria:

Specifications for the services, construction or items to be procured;

Location for submitting bids;

All contractual terms and conditions applicable;

Instructions for bidders including the location, date and time of the bid opening;

Notice that the IFB may be canceled if it is deemed in the best interest of JPTA;

Notice that violation of Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978 imposes civil and misdemeanor penalties and New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks;

The objective evaluation criteria to determine acceptability of the item(s) service or construction;

Bid form, which must be used to be considered eligible, with a space for the price; the bidder will sign and submit the form along with all other necessary documentation;

And any additional information the bidder will require to submit a bid.

#### A. Publicizing

The distribution of the IFB will be widely publicized at least ten (10) days prior to the opening of bids. After bidders have their bidding information, JPTA personnel may have a bidders' conference which must also be publicized.

#### B. Bid Withdrawals, Corrections and Modifications

Prior to the time set for opening the bids, a bidder may withdraw or modify his/her bid by providing this information in writing at the location where bids are to be received.

All documents relating to this modification or withdrawal must be maintained as part of the procurement file.

#### C. Late Bids, Corrections, and Modifications or Withdrawals

No late bids, modifications, corrections, or withdrawals will be accepted after the deadline unless the tardiness is due to the action or inaction of JPTA personnel.

#### D. Amendments to the Invitation for Bids

All amendments to the IFB must be identified as such and distributed to all prospective bidders known to have received the IFB. Prospective bidders will acknowledge receipt of the amendments in writing. The amendments should be provided early enough to allow reasonable time for the bidders to amend their bids.

Amendments should be used to:

Make any changes regarding quantity, descriptions, schedules or opening date; correct errors or ambiguities; or furnish information to all bidders that one bidder received if this information will assist the other bidders in preparing their bids or if lack of the information would negatively impact their submissions.

#### E. Bid Opening

All bids will be time stamped upon receipt. They will remain un-opened until the date and time indicated in the IFB.

The bids will be opened at time and location specified in the IFB with at least one witness,

The name of the bidder, the amount of the bid, any corrections submitted and the names and addresses of the witness(es) will be recorded.

#### F. A bid may be rejected when:

The business that submitted the bid is nonresponsive as determined by failure to provide required information and data to prove sufficient financial resources, production or service facilities, personnel, service reputation and experience adequate to make satisfactory delivery of the services, construction or item(s) described in the IFB.

The bid is nonresponsive; or the item(s), service or construction fail to meet the criteria identified in the IFB.

A nonresponsive bid results in disqualification. Grounds for a bid being declared nonresponsive must be provided to the bidder in writing and maintained in JPTA procurement records.

#### G. Low Bid

The lowest bid that meets the specifications for the item(s), service or construction will be awarded the contract. In the event of tying bids, preference will be given to resident businesses and

businesses using recycled materials. In the event that the bids are still tied, a lottery will determine which bidder receives the contract.

#### **E. Request for proposals**

A request for proposals (RFP) will be used when JPTA is procuring professional services not related to a design or building project or when the state purchasing agent determines that an IFB is not practicable or advantageous to JPTA.

#### **F. The Proposal Procedures**

The proposal procedures and requirements are the same as those for the bidding procedure except for the specifications in this section.

In the information provided to people writing proposals, the weighting of each criterion for selection of the proposal must be identified; or when the BM or ED knows or has reason to conclude before awarding the contract that a mistake has been made in the proposal when they may ask the person making the offer to confirm his/her proposal.

##### **A. Selection Process**

- The proposals will not be opened in public and public inspection is not allowed until a selection has been made to award the contract.
- When a proposal is made public after a contract has been awarded, any section of the proposal, which the offeror requested remain confidential will be kept in confidence. However, the cost of the products or services cannot be held confidential.
- A committee to select the proposal to be awarded will be appointed by the ED prior to the proposal deadline.
- Proposals will be evaluated for completeness, and proposals that will be rejected will be sorted into non-responsible, nonresponsive, and not meeting the specified criteria.
- Discussions to clarify technical and or other aspects of the proposals may be conducted with offerors who submit proposals that are at least potentially acceptable or responsive.
- A short-list of potential contract recipients will be created, using the criteria and weighting specified in the RFP.
- Persons identified on this short list may participate in competitive negotiations to promote clarification of JPTA's requirements and the offeror's proposal and facilitate arriving at a contract most advantageous to JPTA.
- During these negotiations, any person on the short-list may correct, modify or withdraw his/her proposal. Documentation must be kept of any of these actions.
- All offerors will be accorded fair and equal treatment with respect to any negotiations with the selection committee or revisions of the proposals.
- The selection committee will establish a common date and time for the short-listed offerors to submit their best and final offer. They must be informed that failure to offer a best and final offer will result in their original proposal serving as their best and final offer.
- The committee will make a decision and prepare a written determination of the reasons this proposal was considered most advantageous to JPTA.

- Once a selection is made, all offerors on the short-list must be notified of the decision by certified mail. This notification must inform them of their option to protest.
- All contracts resulting from proposals must contain a clause allowing for late payment charges against JPTA.

#### B. Right to Protest

Any bidder or offeror may protest within fifteen (15) calendar days after acquiring knowledge of the facts that give rise to the protest, to the state purchasing agent, or central purchasing office, whichever has control over the procurement.

The protest must be in writing and include:

- Name and address of protestant;
- Solicitation number;
- Grounds for protest;
- Supporting exhibits or documents to support claim; and specify the ruling requested.

The recipient of the protest shall notify the agency of the protest if the contract has been awarded and notify the bidders or offerors if it has not.

The recipient will inform JPTA of its decision to summarily dismiss the protest or request more information, which may include participation in a hearing.

JPTA will thoroughly cooperate with any requests for documentation or testimony and take any action necessary to adhere to the final ruling.

A motion for reconsideration may be filed by either party. The Academy will also adhere to any decision made after this reconsideration.