

**HOWARD COUNTY
PUBLIC SCHOOL SYSTEM**



**PURCHASING OFFICE
PROCUREMENT MANUAL**



October 2023

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Section 1



State and Local Procurement Governance



1.0 PROCUREMENT'S GOVERNANCE

State laws under the Maryland Education Code, Section 5-112, Bids govern the procurement process for the boards of education in Maryland. This section states in part as follows:

1.1 Exceptions

This section does not apply to the following:

- Contracts for the purchase of books and other materials of instruction, as defined in the *State Department of Education Financial Reporting Manual*.
- Emergency repairs.

1.2 Advertisement for Bids; Specifications

1.2.1 If the cost of any school building, improvement, supplies, or equipment is more than \$50,000, the county board, at least two weeks before bids are to be filed, shall advertise for bids in a medium accessible to the general public, the eMaryland Marketplace Advantage (eMMA); or an electronic posting on a bid board and physical posting on the local school system bid board. The HCPSS electronic address is <https://purchasing.hcpss.org/>. (HCPSS Policy 4050-IP section IV.A.)

1.2.2 The Board shall draft specifications that provide a clear and accurate description of the functional characteristics or the nature of an item to be procured, without modifying the county board's requirements:

The specifications may:

1. Include a statement of any of the county board's requirements; and
2. Provide for the submission of samples, inspection, or testing of the item before procurement.

Specifications that use one or more manufacturer's product to describe the standard of quality, performance, or other characteristics needed to meet the county board's requirements, must allow for the submission of equivalent products unless the county board determines in the written specification that:

1. A particular manufacturer's product is required to maintain compatibility of service or equipment;
2. A particular manufacturer's product is required to meet the health needs of students;
3. Replacement parts or maintenance are a paramount consideration; or
4. A product is purchased for resale.

1.3 Award of Contract

1.3.1 A contract for the school building, improvements, supplies, or other equipment shall be awarded to the lowest responsible bidder who conforms to the specifications, with consideration given to:

- quantities involved,
- time required for delivery,
- purpose for which required,
- competency and responsibility of the bidder,
- ability of the bidder to perform satisfactory service, and plan for using minority contractors.

1.3.2 The Board may reject any and all bids and re-advertise for other bids.

1.4 Policies

1.4.1 The Board has policies and regulations governing the procurement functions. The Purchasing Office reports to the Chief Operating Officer.

1.5 Federal Grants

1.5.1 The Board of Education from time to time is the recipient of federal grant awards. The expenditure of those funds will be in compliance with 2 CFR Part 200, Uniform Guidance, that streamlines and consolidates government requirements for receiving and using federal awards so as to reduce administrative burden and improve outcomes effective December 27, 2016.



Section 2



Procurement Authority



2.0 PROCUREMENT AUTHORITY

The superintendent of schools delegates authority to the Director of Purchasing to enter into contracts for the procurement of goods and services as the centralized purchasing agency for HCPSS. The Board shall award all contracts that exceed delegated dollar thresholds. The Director of Purchasing is authorized to delegate purchasing authority to procurement specialists for the purchase of specified goods and/or services.

The Director of Purchasing has the responsibility and authority to negotiate, place, and (when necessary) modify invitations to bids, purchase orders, or other awards granted or issued by the Board. Assigned procurement specialists may assist the Director of Purchasing in discharging these responsibilities. Except for the superintendent, no other county public school official or employee is authorized to order supplies, materials, or services; enter into purchase negotiations or contracts; or in any way obligate HCPSS for any indebtedness. Any purchases ordered or contracts made that are contrary to these provisions and authorities shall be of no effect and void, and HCPSS shall not be bound thereby. (See Attachment A, HCPSS Policy and Procedures, section 4050-IP, *Procurement of Goods and/or Services*, Section VI Delegation of Authority.)



Section 3



Procurement Principles



3.0 PROCUREMENT PRINCIPLES

Public purchasing embraces a fundamental obligation to the general public to ensure that procurements are accomplished in accordance with the intent of the laws enacted by the appropriate legislative body. The intent of HCPSS is that the following should take place:

- All procurement procedures are conducted in a fair and impartial manner, with avoidance or appearance of impropriety.
- All qualified vendors have access to public business.
- No offeror be arbitrarily or capriciously excluded.
- Competition is sought to the maximum degree feasible.
- The rules governing contract awards be made clear in advance of the competition.
- Specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor.

Since competition is sought to the maximum feasible degree, when conducted fairly and honestly, competitive procurement does not guarantee that a preferred brand or vendor will be selected; instead, it guarantees that the most favorable price will be obtained for the quality level that is specified.

The function of the Purchasing Office is to obtain, without favor or prejudice, the proper amount of the suitable product at the best possible price and to have it available when it is needed. Each order shall be placed on the basis of quality, safety, price, delivery, and fast service.

All procurement transactions will be conducted in accordance with federal and state laws and the rules and regulations of the Board. In addition, the procurement specialists will also adhere to the ethics policy from the National Institute of Governmental Purchasing (NIGP).

NIGP: Code of Ethics

- Seeks or accepts a position as head (or employee) only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.
- Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.

- Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- Believes that members of the Institute and its staff should at no time, or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.
- Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.
- Resists encroachment on control of personnel in order to preserve integrity as a professional manager.
- Handles all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on the basis of politics, religion, color, national origin, disability, gender, age, pregnancy and other protected characteristics.
- Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically, without discrimination.
- Subscribes to and supports the professional aims and objectives of NIGP - The Institute for Public Procurement.



Section 4



Procurement Objectives



4.0 PROCUREMENT OBJECTIVES

The Purchasing Office is responsible for obtaining materials, supplies, equipment, and services essential to the operation of the school system, while considering the best interests of HCPSS in all transactions and carrying out its established policies. The fundamental objectives are as follows:

- 4.1 Conduct all procurement transactions in accordance with Board policy and all applicable state and federal laws. Avoid all unethical practices and the appearances of the same.
- 4.2 Develop and maintain reliable sources of supply (to be known as bidders list).
- 4.3 Secure materials, supplies, equipment, and service of the quality and quantity specified for delivery at time and location needed.
- 4.4 Purchase without prejudice, seeking to obtain the maximum value for each dollar while maintaining HCPSS quality standards.
- 4.5 Promote and maintain good vendor relations.
- 4.6 Keep informed of current developments in the field of procurement, prices, market conditions, and new products. Submit information on recommendations regarding new or improved products to the appropriate department or division. Strive consistently for knowledge of the materials and supplies required for use of HCPSS and establish practical methods for obtaining same.
- 4.7 Promote outreach efforts and actively recruit minority vendors.
- 4.8 Promote and maintain good community, public, and interdepartmental relations and cooperate with all organizations and individuals engaged in activities designed to enhance the development of public procurement.
- 4.9 Recruit, retain, develop and support a qualified procurement staff.
- 4.10 Sell, trade, or otherwise dispose of surplus goods belonging to HCPSS. Reference HCPSS Policy 4080, *Disposition of Property*.



Section 5



Procurement Responsibility



5.0 PROCUREMENT RESPONSIBILITY

Contractual agreements between the Board of Education of Howard County, Maryland and a vendor involving financial consideration of public funds in exchange for materials, equipment, supplies, or services must be made primarily on purchase orders. Other forms of payment such as purchasing credit cards may be used as approved by the Purchasing Office.

The Purchasing Office purchases all equipment, supplies, and contractual services and is responsible for the following:

- 5.1** Determining the method of obtaining a competitive solicitation.
- 5.2** Obtaining competitive price quotations and issuing formal bids for items not currently on bid. This service is available to schools not only for budget-related items but also for expenditures from student (independent) activity funds (SAF).
- 5.3** Ensuring that all price quotations are solicited without favor or prejudice; subscribing to and working for honesty and truth in buying; and denouncing all forms of conflict of interest.
- 5.4** Issuing and advertising all solicitations estimated to be over \$50,000.
- 5.5** Developing solicitation specifications for all equipment and supplies in cooperation with the program official requiring the services.
- 5.6** Providing solicitation instructions to vendors.
- 5.7** Understanding the needs of HCPSS; being receptive to competent counsel from colleagues; and being guided by such counsel without impairing the dignity and responsibility of the office.
- 5.8** Promoting goodwill between HCPSS and its suppliers.
- 5.9** Summarizing all formal bids received by conducting evaluations and preparing recommendations for awarding contract.

- 5.10** Notifying the office for which the bids are secured of every instance when an item(s) offered fails to meet specifications. In those cases where a department, division, or supervisor is evaluating a bid for specification compliance, evaluation should be done with the oversight, participation and facilitation of Purchasing Office. Findings of all specification deviations must be reported to and recorded by the Purchasing Office.
- 5.11** Preparing and presenting to the superintendent, the recommendation of a bid award or rejection for submission to the Board. If the Director of Purchasing and the administrator/supervisor responsible for evaluating a bid for specification compliance cannot reach a consensus, the matter is referred to the Chief Operating Officer for resolution.
- 5.12** Having a representative of the Purchasing Office in attendance at all Board meetings with bid recommendations on the agenda, notifying the department or division for which the bids are secured, and ensuring that a representative of the office for which the bids are secured will be in attendance and prepared to provide information to the Board, if necessary, concerning the educational benefits or other needs for the bid item(s).
- 5.13** Ensuring that procurements requiring Board approval are not issued prior to such approval.
- 5.14** Authorizing vendors to visit HCPSS sites. Under all circumstances, sales representatives must have prior authorization from the Purchasing Office to visit schools.
- 5.15** Corresponding with vendors regarding contractual issues. If the responsibility is delegated, a copy of all correspondence with the supplier must be forwarded to the Purchasing Office. Copies of all correspondence to vendors regarding other issues shall be forwarded to the Purchasing Office.
- 5.16** Administering a minority business enterprise (MBE) or minority/female/disabled (MFD) vendor participation plan.
- 5.17** Maintaining, as far as practical, a file of current trade catalogs to keep departments informed of new materials, equipment, services, sources, prices, and processes in manufacturing.

5.18 Maintaining a procedures manual that reflects the policies and procedures under which it operates. In addition, detailed instructions for implementing these and other procedures will be documented. Additions, changes, and deletions will be issued periodically to ensure current and valid information. Updates will be posted on the HCPSS and the HCPSS Staff Hub websites.



Section 6



Responsible Persons



6.0 RESPONSIBLE PERSONS

In addition to the Board, when appropriate, and the superintendent, the following are responsible for specific functions:

6.1 Program Official

The Deputy Superintendent for Administrative Affairs, Chief Human Resource and Leadership Development Officer, Chief Business and Technology Officer, Chief School Management and Instructional Leadership Officer, Chief Academic Officer, Chief Communication, Community/Workforce Engagement Officer, Chief Operating Officer or other HCPSS official designated by the superintendent who is authorized to request the Director of Purchasing to issue solicitations of contractual services.

6.2 Project Manager (Contract Owner)

The person named in a procurement solicitation and contract as being the program's official representative to the vendor concerning the technical requirements of the solicitation and contract. The project manager reviews vendor performance and provides approval to the Chief Operating Officer for payment of vendor invoices.

6.3 Director of Purchasing

The Director of Purchasing (or designee) is responsible for all contract administration involving the procurement of equipment, supplies, and contractual services, including -

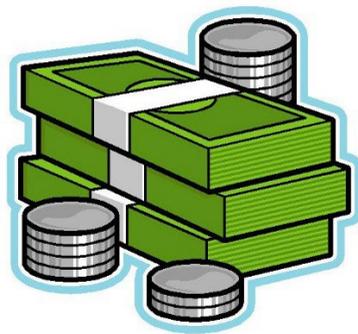
- 6.3.1 Issuing procurement solicitations and contract documents;
- 6.3.2 Obtaining approval for award of a contract;
- 6.3.3 Issuing notification of contract awards;
- 6.3.4 Review and/or authorizing payments; and
- 6.3.5 Enforcing contractual terms and conditions.



Section 7



Thresholds for Determining Method of Procurement



7.0 THRESHOLDS FOR DETERMINING METHOD OF PROCUREMENT

The following thresholds determine the method used to obtain competitive prices for equipment, supplies, and services. [These thresholds do not apply to the purchase of books and/or other materials of instruction.] For an item, or group of items, estimated to cost as follows:

Estimated Cost	Method Used to Obtain Competitive Prices Best
\$0 - \$10,000	Best Price - One written quote
\$10,000.01 - \$50,000	Three Informal Written Quotes
\$50,000.01 and up	Formal Solicitation: Invitation for Bid (IFB) Request for Proposal (RFP)

Regardless of the source of funds by which the contract is to be paid, e.g. operating, capital or grant funds, etc., HCPSS purchasing procedures as provided herein apply to the procurement of all goods and services by all departments and schools with both appropriated and (independent) student activity (SAF) funds. Memorandum of Understanding (MOU) documents that involve the commitment of funds will follow purchasing procedures as well. These procedures do not apply to PTA, Booster Clubs, or any other association or organization when the *PURCHASE TO BE MADE DIRECTLY* by such organizations; however, it is highly recommended that these organizations follow sound procurement methods.



Section 8



Procurement Methods

8.0 METHODS OF PROCUREMENT

HCPSS procurement methods can be categorized as Noncompetitive and Competitive. Noncompetitive methods include professional services, instructional materials, emergency requests, single source, proprietary, and surplus property. Competitive methods include invitation for bid (IFB), request for proposal (RFP), and informal quotations.

8.1 Noncompetitive Procurement Methods

8.1.1 Professional Services

There is a recognized need for the procurement of professional services on an as-required basis or over an extended period of time, when such services cannot be provided by HCPSS personnel resources, e.g., contracting with a performing artist, guest lecturer, seminar leader, etc.

The requestor, in cooperation with the Office of Human Resources, will determine whether the individual services are classified as either consultant services or an employer/employee relationship. In addition, prior to issuing a contract, the requestor will ensure that appropriate tax identification (Social Security number and federal tax identification number) and W-9/1099 information are obtained from the service provider.

8.1.2 Instructional Materials

Instructional materials are print and non-print items that are designed to impart information to the learner in the teaching/learning process. Instructional materials may be consumable and expendable and include such items as charts, kits, textbooks, magazines, pictures, recordings, slides, transparencies, videos, video discs, workbooks and electronic resources such as software, CD-ROMS, and online services, etc.

State Law, the Annotated Code of the Public General Laws of Maryland, Education, Section 7-106:

Selection and purchase of school materials: On the recommendation of the county superintendent of schools and subject to the provisions of this article, each county board shall

adopt procedures for the selection and purchase of the following necessary items, at the lowest price consistent with good quality, for the use in the public schools:

- Textbooks
- Supplementary readers
- Stationery and school supplies
- Materials of instruction
- Visual and auditory aids
- School furniture, equipment, and apparatus

See Board Policy for the procedures for the evaluation and selection of instructional materials and library books.

8.1.3 Emergency Requests

If a request for emergency purchase exceeds \$50,000, a Committee, consisting of the Chief Operating Officer or designee, and the Director of Purchasing or designee, must approve the purchase. An emergency may arise in order to protect personal safety, life, or property (i.e., an occurrence of a serious, urgent, and threatening nature that demands immediate action to avoid termination of essential services or a dangerous condition). In such cases, a purchase order or contract may be awarded by the Director of Purchasing without competitive bidding or competitive negotiation; however, such procurement shall be made with as much competition as is practicable under the circumstances. A written determination and justification establishing the basis for the emergency and for the selection of the particular vendor must be submitted by the requestor to the Purchasing Office prior to creating an obligation. The Committee will approve or disapprove the purchase as an emergency procurement. The approved written determination shall become part of the procurement file. The potential loss of year-end funds and/or poor planning is not considered adequate justification for an emergency purchase and will not be approved as such. In the event of an emergency, the requestor must complete an Emergency Purchase Request Form.

In emergency cases where, in the opinion of the Committee, the length of time of the bidding cycle would adversely affect the educational process and bidding may result in a price increase, it is permissible to procure items under an open contract based

on a previous bid or utilize a contract of another jurisdiction if the required items are identical to the items on the current contract and if the supplier agrees to honor the contract prices.

8.1.4 Sole Source and Proprietary

If the request is for a single source purchase that may exceed \$50,000, the Board must approve the purchase.

- Sole Source purchases are to be supported by a written sole source justification. The justification should include a statement from the manufacturer (not a distributor) of the product identifying the requested sole source as the only source available. Once it is determined that there is only one source practicably available for the required good, service, insurance, or construction item, the buyer, in cooperation with the requestor, shall conduct negotiations, as appropriate, to obtain the best price, delivery, and terms.

8.1.5 Surplus Property

The Howard County Public School System is eligible to purchase federal surplus property from the Maryland State Agency for Surplus Property.

With a letter of authorization, issued by the Purchasing Office, and approved by the responsible account manager, an HCPSS employee may visit surplus centers and purchase items for use by HCPSS. If an item is purchased, the receipt issued by the center is attached to a completed requisition form for the issuance of a purchase order.

8.2 Competitive Procurement Methods

General

The term “formal” is used to identify solicitations that are over \$50,000. The term “Informal” is used whenever the total cost of the purchase is expected to be \$50,000 or less.

All public contracts with nongovernmental vendors for the purchase or lease of goods or services in excess of \$50,000 shall be awarded after competitive sealed bidding. An Invitation For Bid (IFB) is issued and public notice given under the direction of the Director of Purchasing of the Purchasing Office.

Procedures

The Purchasing Office issues solicitations for goods or services to be obtained under formal procedures, with assistance from the requesting unit, in the preparation of technical specifications and drawings.

The request is forwarded to the Purchasing Office. The request shall include technical specifications, the estimated contract amount, and vendor(s) known by the requesting unit. Specifications available electronically will expedite the process. Review of the solicitation by the requestor prior to issuance may be required in some cases. A copy of the completed solicitation is submitted to the requesting unit.

8.2.1 Invitation For Bid (IFB)

The approximate time needed to process a formal solicitation is from three (3) to four (4) months. This allows adequate time for the solicitation of bids or offers, evaluation of responses, contract award, and timely delivery of the goods or services, as specified. Certain requirements of the formal bid process cannot be expedited; therefore, planning the bid schedule with the Purchasing Office is essential to meet the desired delivery.

Delay of the bid schedule could be the result of the following circumstances: questions on specifications; change of opening date, vendor protests, amendments, and the evaluation and recommendation processes.

8.2.1.1 Notice of Invitation For Bid

Bids will be advertised in a medium accessible to the general public (see paragraph 1.2) at least 14 calendar days prior to the opening date (see HCPSS Policy 4050).

The Purchasing Office will post all pending purchases

or sales on the Purchasing Office Web page.

Sealed bids will be solicited from all responsible prospective suppliers who have requested their name be added to eMaryland Marketplace.

8.2.1.2 Submission and Safeguard of Bids

Each response must be delivered in a sealed envelope to the procurement office prior to the date and time specified for receipt. The envelope shall be clearly marked with the bid number, bid opening date and time, and vendor's name and address.

Bids may be delivered in person, but must be delivered to the Purchasing Office, Howard County Public School System, 10910 Clarksville Pike, Ellicott City, Maryland, 21042 and be received and stamped prior to the bid opening. Delivery to the mailroom or lobby does not validate the time of receipt.

The respondent shall assume full responsibility for timely delivery of the bid or proposal whether by the U.S. Postal Service or by any other carrier. Bids or proposals received after the designated time for the receipt of solicitations will remain unopened and the sending firm, if identifiable, notified. HCPSS is not responsible for the late delivery of bids or proposals by the U.S. Postal Service or by any other carrier.

All bids received prior to the time set for opening shall be dated, time stamped, kept unopened, and secured in the Purchasing Office. Prior to the bid opening, information concerning the identity and number of bids received may be made available only to employees who have a proper need for such information, as determined by the buyer. When bid samples are submitted, they shall be handled with sufficient care to prevent disclosure of characteristic before bid opening.

Unidentified responses may be opened solely for the purpose of identification. If a sealed bid is opened

because of the bidder's failure to clearly label it as a bid, the person who opened the bid will immediately write their position title, IFB number, and date on the envelope together with an explanation of the opening, and sign the envelope. Bids opened for identification purposes shall be resealed in the envelope and no information contained therein shall be disclosed prior to the public bid opening. However, HCPSS will not be responsible for any information disclosed in such circumstances. Unidentified responses not opened in a timely manner will not be considered and not be included in the bid evaluation.

8.2.1.3 Amendments to Invitations for Bid (IFB)

Amendments to IFBs shall be in the form of errata or addenda. Bidder(s) must acknowledge receipt of errata or addenda by signing and including them in the bid response. If bidders obtain the solicitation through sources other than HCPSS, the bidder shall be responsible for obtaining all errata and addenda that may be issued.

The Director of Purchasing or designated procurement specialists may extend the time and date for bid opening to enable bidders to adequately consider the amendments.

8.2.1.4 Opening of Bids

Vendors are encouraged to attend the bid opening.

Responses to the IFB shall be received in the Purchasing Office and publicly opened. Prices, terms, and conditions will be made public. Copies of the bid responses may be available for examination at a time and place designed by the buyer. Under certain circumstances (e.g., the submission of proprietary information) the documents will not be available for review.

The buyer is responsible for announcing when the time for bid opening has arrived. No less than two (2) staff members shall attend all bid openings. Staff attending bid openings shall sign/initial bid opening tabulations.

The buyer may determine that bid responses will not be made available for review on the bid-opening day. In such cases, interested parties may review responses by appointment and at the convenience of HCPSS.

8.2.1.5 Bonds

- a. Bid bonds may be required to be submitted at the time of bid and included in the bid envelope. The purpose of the bid bond is to ensure that the bidder will honor the prices bid. Other conditions of the bid bond will be outlined in the solicitation.
- b. Performance and Payment (Labor and Material) Bonds may be required to be submitted. The purpose of these bonds is to ensure the satisfactory completion of the work for which a contract or purchase order is awarded. The time for submission and amount will be outlined in the solicitation.

8.2.1.6 Evaluation

Bids are tabulated and the requesting unit is provided a copy of the bid tabulation for review and recommendation.

When appropriate, the requesting unit, in cooperation with the buyer, evaluates the bid, in accordance with the method of award criteria and for responsiveness and responsibility (see paragraph 1.3.1).

The Director of Purchasing reviews the recommendations prior to submitting them to the Board.

8.2.1.7 Types of Specifications

Brand Specifications

If a brand name is used, the words “or equal” must be added, unless the brand is the only brand that is compatible for the purpose intended, required to meet health needs of the students, or for which replacement parts or maintenance are a paramount consideration (see paragraph 1.2.2).

The name of a certain brand, make, or manufacturer, does not restrict bidders to the specific brand, make, or manufacturer. The designation conveys the general style, type, character, and quality of the articles desired. Any article which HCPSS, in its sole discretion, determines to be equal to that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

The term “or equal” does not mean that the product will be evaluated as to whether it is **exactly** equal to the product named in the specification. “Or equal” means that an alternative product will be evaluated to determine if it produces the same result as the brand specified. Bidders must submit at the time of bid information, specifications and any other information they deem appropriate for the full evaluation and suitability of the proposed item.

The specification must include any mandatory physical characteristics of the product specified (such as size, horsepower, weight, etc.) that must be met by the alternate bid to be accepted as “equal.”

Technical or Design Specifications

This type of specification describes the construction of the item in detail. Use of technical or design specifications may eliminate the vendor from liability as to the performance of the item.

Performance Specifications

This type of specification describes the function and

use of the product.

Approved Products List

An approved products list is a list of products that have been tested and approved before soliciting bids. Approved product list specifications must always include a provision for testing and expansion of the list for subsequent purchases.

8.2.1.8 Vendor Assistance in Specification Preparation

The requesting unit should notify the Purchasing Office prior to contacting vendors to receive assistance and/or suggestions on procurement requirements. When the requesting unit does receive advice or assistance from a vendor in preparing specifications for a purchase, the name of the vendor(s) providing assistance must be submitted with the purchase request. Vendor assistance in evaluating available products and preparing specifications shall not imply or infer that such vendor will receive a purchase order or contract award.

8.2.1.9 Types of Contract Specifications

Multistep Sealed Bidding

Whenever it is considered impractical to describe a product sufficiently to support an award, based on price, an IFB may be issued by requesting the submission of technical and business offers. Bidders whose offers are determined to be technically acceptable under the criteria set forth in the first solicitation shall be invited to submit priced offers either at the time of the technical submission or at a later date.

Multiple-Source Contracting

Primary/secondary contracting is where the primary source is one specified contractor and secondary, tertiary, and other sources perform as backup contractors. In this type of contract, the primary contractor receives all orders for goods or services. The

backup contractor (secondary, tertiary, etc.) receives orders only after the primary contractor either fails to deliver under specified conditions in the contract or a specified quantity limit has been ordered from the primary contractor, as specified in the contracts. Other ordering procedures may be specified in the solicitation.

Multiyear or Term Contracts

Multiyear or term contracts may be authorized by the Director of Purchasing when it is appropriate to obtain uninterrupted services extending over more than one year or contract term, when the performance of services involves high start-up costs, when a continuous source of supply over a multiyear or term period is required, or when a changeover of services involves high phase-in/phase-out costs during a transition period. These multiyear or term contracts take the following forms and may be authorized under the following conditions: renewal and original long-term contracts. Multiyear awards are approved by the Board.

Renewal Contracts

Renewal contracts are contracts entered into with an original term, usually one year, subject to renewal options of a specified maximum period of time. These contract extensions are subject to appropriate fiscal funding and satisfactory contractor performance.

Original Long-Term Contracts

A multiyear or term contract (original long-term contracts involving a multiyear or term without need for renewal) may be entered into only under the following circumstances:

- The requesting unit furnishes to the Director of Purchasing sufficient written documentation to demonstrate that the requirements contained in the multiyear or term contract are reasonably firm and are continuing over the term of the contract. In addition, the requesting unit must furnish sufficient documentation to the Director of Purchasing to

demonstrate that the contract is in the best interest of HCPSS because it encourages effective competition or promotes economies in performance and operation.

- The contract must also include a termination provision, which provides that in the event funds or terms subsequent to the first term are not appropriated and available for encumbrance for the subsequent years of the contract, the contract may be terminated by HCPSS without further liability to the contractor.

Multiple-Award Contract

A multiple-award contract is one in which more than one contractor is awarded a contract for same or similar goods or services, where more than one vendor is needed to meet the contract requirements for quantity, delivery or service.

It may take the following form:

Geographic Distribution Awards-Geographic distribution awards are contract awards made to separate contractors of goods or services, in separate identifiable geographic areas, when such awards are justified by need for adequate delivery, service, availability, distribution of county contract work, or product compatibility.

Companion Type Awards - Companion type awards are contract awards made to separate contractors of goods or services that serve as component, complementary, or super or subcomponent items.

8.2.1.10 Bid Awards

Contract award will be made by the Board, see HCPSS Policy 4050, to the lowest responsible bidder who conforms to the specification, with consideration given to quantities involved, time required for delivery, purpose for which required, competency and responsibility of the bidder, ability of the bidder to

perform satisfactory service, and the minority utilization plan.

Bids shall be awarded to the lowest responsive and responsible bidder. When the terms and conditions of the IFB provide that multiple awards may be made, awards may be made to more than one bidder.

Unless canceled or rejected for good cause, a responsive bid from the lowest responsible bidder shall be accepted as submitted except that, if the bid from the lowest responsible bidder exceeds available funds or is deemed excessive, HCPSS may negotiate with the lowest responsible bidder to obtain an acceptable contract price.

Price can be negotiated only with the lowest responsive and responsible bidder. If the negotiations do not result in a lowering of the bid price to an acceptable level, that bid and all remaining bids must be rejected.

Notification of award, unless otherwise specified in the solicitation, will only be made to the awarded bidders. As resources permit, notification to the non-awarded bidders will be made, however, it is the responsibility of the bidders to maintain contact with the Purchasing Office and the status of the solicitation.

8.2.1.11 Tie Bids

In the event of tie bids, if all other factors are considered equal, the bid is awarded in the following order of preference:

1. The vendor is based in Howard County.
2. The vendor is based outside Howard County but within the state of Maryland.
3. The vendor is a minority vendor.

If a tie bid still exists after the above preferences have been considered, a decision concerning the award will be arrived at by flipping a coin. In such an event, the Director of Purchasing will conduct such event in the

presence of any interested parties.

8.2.1.12 Interest in More than One Bid

More than one bid or proposal received in response to a single solicitation from an individual, firm, partnership, corporation, affiliate, or association under the same or different names will be rejected.

Reasonable grounds for believing that a bidder or offeror is interested in more than one bid or proposal for a solicitation, both as a bidder or offeror, and as a subcontractor for another bidder or offeror, will result in rejection of all bids or proposals in which the bidder or offeror is interested. However, a firm acting only as a subcontractor may be included as a subcontractor for two or more bidders or offerors submitting a bid or proposal for the work.

Bidders or offerors rejected under the above provisions shall be disqualified if they respond to a re-solicitation for the same work.

8.2.1.13 Rejection of Bids

The Board reserves the right to reject any and all bids (in whole or in part); to make partial awards; to waive any irregularities in any quotation; to increase or decrease quantities if quantities are listed in the bid; to reject any bid that shows any omissions, alterations of form and additions, conditions, or alternate proposals not called for; and to make any such award as is deemed to be in the best interest of the Board.

8.2.1.14 Withdrawal of Bids

Bids may be withdrawn by written notice if given prior to the time and date specified for the opening of the bid. Telephone calls for these purposes are not acceptable.

8.2.1.15 Changing of Bid Prices

Bidders are prohibited from changing their bid prices once their bid has been opened, even if the price submitted was in error. If, during review of the bids, an obvious pricing error is discovered, the bid will not be considered.

8.3.1 Request for Proposal (RFP)

An RFP is a formal solicitation usually for services. Proposals are not publicly opened. An RFP is a procurement process in which quality and price are balanced to meet the needs of the user. Final costs and scope of work are subject to negotiation after the proposals are received and before the contract is awarded, unless otherwise stated in the RFP.

8.3.1.1 Use

An RFP is used under the following circumstances:

- For procurement of contracted services or of a system that consists of services including goods
- When technical considerations as well as cost are valid criteria in the evaluation of offers
- When a requesting unit can generally formulate the specifications for the services or system to be acquired
- When there are known sources of supply and competition is anticipated
- When the procurement is valued at more than \$50,000.

An RFP may also be used for the procurement of goods or nonprofessional services when HCPSS believes that the evaluation criteria provided in an RFP would promote the best interest of HCPSS. Approval to use an RFP instead of an IFB for the procurement of goods or nonprofessional services must be approved by the Director of Purchasing.

8.3.1.2 Contents

An RFP includes -

- a transmittal letter;
- the date, time, and place for submission of proposal;
- the date and location of the pre-proposal conference;
- background information;
- the scope of services;
- criteria and method of award;
- a technical section; and
- a business section.

An RFP may contain a minimum score that establishes the threshold that an offeror must achieve.

Evaluation Committee

The director of the requesting unit or designee will chair the evaluation committee. The remaining members shall consist of the Director of Purchasing, or designee and other members as mutually agreed upon by the director of the requesting unit or designee. The Director of Purchasing or designee shall be an ex-officio, nonvoting member of all evaluation committees. The Director of Purchasing may excuse the participation of any designee from the evaluation committee.

The committee shall be responsible for the following tasks:

- Preparation of the technical specifications and criteria for evaluation.
- Review of the original RFP.
- Review of the responses according to the criteria established in the solicitation.
- Selection of the vendor finalists.
- Participation in the oral presentations by the vendor finalists.
- Investigation of the performance of the offeror in contracts listed as references (or other contracts

not listed as references but who HCPSS staff may know).

- Conducting cost and price analyses of the data submitted by vendor finalists (including life-cycle costs).
- Ranking the vendor finalists, from best to worst.
- Participation as a member of or assisting other members of the evaluation team in conducting negotiations with one or more of the top-ranked vendor finalists.
- Evaluating the best and final offer(s) of the vendor finalist(s).
- Making a positive contribution to the committee's mission of producing a professionally sound recommendation for award.
- Giving the chairperson all the committee members' files, records, correspondence, completed evaluation forms, results of reference checks and site tours, and minutes of meetings, for inclusion in the master solicitation file, in the event that the committee's decision is questioned or challenged.
- Conducting the evaluation and selection process, in strict accordance with the procurement rules of HCPSS, and ensuring that the final recommendation is without bias and legally defensible.
- Providing information and assistance to the procurement and legal departments, if protests are filed by unsuccessful offerors.
- Maintaining the confidentiality of the identities of the offerors and the security of the contents of the offerors' responses until the award is made.
- Attending all committee meetings.

Attendance at Committee Meetings

Each voting committee member is expected to attend all evaluation meetings and oral presentations. Absenteeism of a member may require the voiding of all scores previously submitted by that member and recalculation of committee scores. The committee should remain intact throughout the evaluation process

to avoid unbalanced scoring. Voting committee members who expect to be absent for at least one meeting should withdraw.

The committee shall consist of HCPSS staff only. Independent consultants may be invited to participate on the committee with varied levels of involvement based upon the need of HCPSS. All evaluating members participating on the committee or involved in a solicitation will be required to complete a non-disclosure and confidentiality statement.

8.3.1.3 Review of the RFP

An RFP consists of two sections. Part A is the technical section, which includes the scope of work and vendor requirements. Part B is the business section, which includes the cost.

The committee is given copies of the technical section. Once the technical section is reviewed and scored the business section is opened and given to the committee for evaluation.

Once both sections are evaluated, a decision can be made weighing the cost and best qualified to determine the final recommendation.

The committee that evaluates the business (cost) section may be the same as the technical review committee or may be a separate committee.

Before an RFP is issued, a list of the members of both evaluation committees shall be on file in the procurement office.

A proposal can be evaluated effectively only when each committee member is familiar with the original RFP. In addition to the task description for the project, the RFP includes the qualifications required of the offerors and identifies the criteria to be used in evaluating the

offerors' responses. Committee members must be familiar with the requirements of the RFP to determine whether it mandates or only suggests that offerors provide certain services or information. The words "should" and "may" in the proposal simply encourage the offeror to do something. They are not to be considered mandatory requirements. Only "shall," "must," and other command words require action by the offeror.

The only award criteria that can be used in the evaluation process are those included in the original RFP. These criteria must be applied to the responses without change, deletion, or expansion. The use of any evaluation criteria other than those listed in the solicitation is prohibited.

8.3.1.4 Independent Review by Committee Members

The evaluation form is prepared by the committee chairperson, with the assistance of the Director of Purchasing/designee, and distributed to all members, along with copies of the responses received. Each member independently reviews and scores the offerors' responses (before meeting or discussing the responses with any other committee members) and inserts their scores for each evaluation criterion in the "Independent Review" column of the form.

During the independent review, committee members make notes of their observations directly on the evaluation form so that they may defend any challenge to their scoring during the full committee review.

8.3.1.5 Review by Full Committee

The full committee meets and discusses the scores assigned by each member during the independent review. During the committee discussion, members may acquire a better insight into the qualifications of each offeror from hearing other committee members' reasoning behind their scores. It is not unusual to have

a dramatic change in a committee member's independent scoring of an offeror because of this added insight. If, because of the discussions, a committee member feels that a score for one or more entries requires adjustment, the adjusted score is inserted into the evaluation form. No changes are made to the independent score. Notations accompanying the evaluation form shall describe how these changes are made.

The committee chairperson forwards the original evaluation forms to the Purchasing Office with the committee's final award recommendation within eighteen (18) calendar days prior to Board approval.

8.3.1.6 Identification of Offerors Meeting the RFP Requirements

The committee identifies the offerors meeting the requirements of the RFP and those who do not qualify for further consideration. This is done by totaling the evaluation forms (after adjusting the criteria scores to account for any scoring changes made during the full committee review). Offerors then are ranked by their individual total scores, the highest-scoring offeror being first. The committee then selects the top-ranked finalists (usually from three to five) for further evaluation. The tasks of interviewing, checking references, conducting oral presentations, and making the final selection can be a consideration in determining the number of finalists. Offerors with the lowest scores are eliminated from further consideration at this stage. A listing of the offerors eliminated is made part of the record by the chairperson and forwarded to the Purchasing Office.

If necessary, a second review is made of the finalists who are now ranked by point scores received (the highest point value being ranked first, etc.). If the list contains more than four or five firms, a second cut (one or more of the lowest scoring offerors) may be made. There are no restrictions on classifying all offerors as

finalists.

Any time that the discussions of the committee result in a change in the ranking of the finalists established by the evaluation forms, notify the Director of Purchasing. Changes may require that a memorandum of explanation be prepared and made part of the record. Late changes in scoring must be avoided as much as possible and may not be permitted under some circumstances.

When the finalists are selected, a memorandum setting forth a summary of the actions taken by the committee is sent to the Director of Purchasing with the evaluation forms, other pertinent documents, and committee members' voting records. The memorandum is reviewed by the Director of Purchasing.

8.3.1.7 Additional Information (Written and Oral Submission)

In some cases, when the first ranked finalist has a score much higher than the other finalists, oral presentations by other offerors may not appear to be necessary. However, the scores of the finalists, although a good indicator of their capabilities, must not be considered completely reliable or an absolute indicator of the finalists' ability to do the work. It is not unusual for offerors extremely skilled in preparing high-scoring written responses to do poorly in oral presentations, have marginal references, or submit price responses that are higher than available funds. It is always good practice, no matter what the scoring spread between the finalists, to conduct interview(s). Keep the process competitive for as long as possible.

Oral presentations should not be scheduled in the order the finalists are ranked.

If the evaluation process has clearly shown that only one offeror is fully qualified, an oral presentation still may be held with that offeror. Do not begin contract

negotiations with an offeror until the committee has had an opportunity to hear the offeror's oral presentation, meet the project manager and other team members, and examine and discuss the offeror's cost proposal.

A second written submission (in addition to the original response) may be required of the finalists. The second written submission should be delivered in sufficient time to allow for committee members review prior to the oral presentation. The written submission can include (by way of illustration only) responses to questions generated by the committee during their initial evaluation meetings, the offeror's proposed cost of the work, an estimated budget, personnel staffing charts, schedules, and hours to be spent on the project by principals. The requested estimate of costs provides the committee members with a better grasp of how the offerors view the total project from a financial standpoint.

8.3.1.8 Checking References

When possible, personal visits should be made to references rather than relying solely on telephone contacts. During the reference check, obtain information on how the contractor performed for the organization, the extent and type of claims filed, problems that occurred during the contract term and how they were resolved, and the contractor's reliability and level of professionalism. Immediately before each finalist's oral presentation, the committee member responsible for conducting the reference checks, or other person as designated by the Director of Purchasing, reports to the committee on the results for the reference check. Always request clarification from the offeror about any unfavorable references obtained. The finalist should be given the opportunity to defend any adverse allegations made by former clients.

8.3.1.9 Hearing Oral Presentations

When an oral presentation is made, each committee member takes notes on the content of the presentation to be able to effectively score the finalists after all presentations are made. A second evaluation form may be used for this process. If an evaluation form is not used, complete records must be kept that are acceptable to the Purchasing Office and they must indicate results of any committee voting and any other information that supports the final award recommendation.

8.3.1.10 Negotiations

The entire committee, a subcommittee of the committee, or the Director of Purchasing may conduct the negotiation sessions. The subcommittee approach is the preferred method. With the approval of the Director of Purchasing, persons who were not members of the committee may be allowed to participate in negotiation sessions. The negotiators must be completely familiar with the project and the specialty area of the finalists. At the conclusion of negotiations, finalists are requested to provide a best and final offer (BAFO), including cost, for the service required.

8.3.1.11 Recommendation for Award

The recommendation for award is submitted to the Purchasing Office in the form of a memorandum explaining the selection. This memorandum should include the following:

1. Names of all the offerors considered.
2. Summary of the criteria used for evaluation.
3. An explanation of the selection. Summarize the process and include as attachments the scoring and voting records, completed evaluation forms, and any other evaluation and scoring documents created during the selection process.

4. The identity of the recommended finalist and the reason(s) for selecting the finalist.
5. Price, terms, and scope of work of the contract to be awarded.

The final contract will be prepared by the Purchasing Office and the user with a review by legal counsel, as necessary. However, the committee through its chairperson, must provide at least a detailed scope of work, benchmarks of progress, payment schedule and method of payment (this should have been included in the RFP).

8.3.1.12 Evaluation Criteria

Evaluation criteria may include-

- general experience and technical competence;
- past performance record on other county projects;
- related experience on similar projects;
- compatibility of size of firm with size of proposed project;
- knowledge of local conditions, codes, and ordinances (where such knowledge is essential to the proper performance of the contract);
- current total workload of the vendor and the capacity to accomplish the proposed work in the required time;
- familiarity with project or project site;
- special qualifications, experience, design approach;
- originality and design quality of previous work;
- adequacy of office facilities where services will be rendered; and
- involvement of consultant's management and participation of key officials in the project; and
- verification that the vendor is not suspended or debarred or otherwise excluded. This verification may be accomplished by checking the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA), and
- cost should have a major consideration.

The request for proposal may identify all evaluation

factors, including cost and performance criteria. The responses shall be appropriately evaluated in accordance with the evaluation factors identified in the RFP.

8.4 Small Purchases (Informal Quotations)

The procedures for purchases made under the small purchase method include, but are not limited to, the following:

- Insofar as it is practical, five minority and five non-minority businesses comply with board policy shall be solicited to submit quotations for purchases under \$50,000. The Purchasing Office serves as a source of potential vendors.
- Award shall be made to the business offering the lowest quotation meeting specifications.
- The name of the businesses submitting quotations and the date and the amount of each quotation shall be recorded and submitted to the Purchasing Office.

8.5 Lease/Installment/Rental

Orders for equipment rental with the option to buy, lease/purchase, or installment purchase of any materials or equipment shall be obtained in the same manner as the competitive procurement of goods. The Board must approve all lease/purchase agreements.

The user must submit a request and plan for how the lease/purchasing or rental agreement will be funded.

The resultant agreements must be reported to the Finance Office.



Section 9



Pre-submission Conference

or

Site Visits



9.0 PRE-SUBMISSION CONFERENCE and/or SITE VISITS

At the discretion of HCPSS, a pre-bid conference may be held to advise known potential bidders of special or technical requirements of a bid and allow the bidders to ask questions about the bid or the work to be performed. The pre-bid conference may involve a site visit and tour of the work area.

Pre-bid conferences are open to all potential bidders and any other interested parties. Any information disseminated at a pre-bid conference that alters the intent, specifications, or scope of work shall be made available to all bidders and be included as an addenda to the solicitation. Responses that are clarification in nature will not be included as part of an addenda and may or may not be shared with other bidders. There shall be no private dissemination of information to any bidder or group of bidders that may provide an advantage over other bidders. At the discretion of HCPSS, questions may be required in writing and may be answered in writing. Pre-bid conferences may also be recorded.

Attendance at pre-bid conferences are not mandatory and, therefore, not a prerequisite to submitting a bid. HCPSS shall not answer questions or discuss a bid with potential bidders after a pre-bid conference has concluded (including potential bidders who did not attend a pre-bid conference) unless the answer is provided to all potential bidders at the same time in the form of an addenda.

Information concerning the attendees at a pre-bid conference shall not be made public until after award, unless included as part of addenda.

The above is also applicable to preproposal conferences and site visits.



Section 10



Selection of Vendors



10.0 SELECTION OF VENDORS

10.1 Approved Vendor List

- 10.1.1** The Purchasing Office will maintain a list of active suppliers and contractors doing business with the Board. A vendor placed on the list is not an endorsement or guarantee of a vendor's performance.
- 10.1.2** The only suppliers and contractors who shall be considered are those who give assurance of delivery, reliable products, maximum value for dollars spent, minority participation and other advantages. It is the responsibility of the Purchasing Office, with the assistance of appropriate personnel, to constantly appraise suppliers and contractors on these bases, known as a "scorecard".
- 10.1.3** The Purchasing Office has the authority to remove suppliers from bidding with the Board for reasonable period of time that will be determined on a case-by-case basis.

10.2 Advertisements

The Board shall advertise at least two (2) weeks before bids are to be filed as follows:

- Electronic postings via online systems, through the Howard County Public School System, the Purchasing Office web page, <https://purchasing.hcpss.org>, and through eMaryland Marketplace Advantage (eMMA).
- A posting of notices on a public board located in the Purchasing Office.

10.3 Prequalification of Bidders

- 10.3.1** The Director of Purchasing is authorized to prequalify bidders prior to solicitation.
- 10.3.2** Such process shall set forth the criteria upon which the qualifications will be evaluated and be included in the solicitation if specified.

- 10.3.3 Advance notice shall be given of the deadline for the submission of prequalification applications.
- 10.3.4 Prior to the date established for the submission of bids or proposals to which the prequalification applies, the Director of Purchasing shall advise (in writing) each vendor who submitted an application whether or not it has been prequalified. Vendors may request a debriefing regarding denial of prequalification after an award has been made.
- 10.3.5 Failure of a bidder to prequalify with respect to a given procurement shall not bar the bidder from seeking prequalification as to future procurements or from responding to procurements that do not require prequalification.
- 10.3.6 It is the responsibility of the bidders to monitor the status of a solicitation and to inquire as necessary. The Purchasing Office may or may not issue direct notice of status of the solicitation in terms of award or no award.

10.4 Children – Child Care Facilities, Public Schools – Contractors and Subcontractors

- 10.4.1 **Vendors must comply with the laws of Maryland regarding the hiring and retaining of employees who have direct, unsupervised, and uncontrolled access to children in specific facilities to submit to a criminal history records check. All solicitations will include language as referenced in Section 24.**



Section 11



Resolution of Protests and Disputes



11.0 RESOLUTION OF PROTESTS AND DISPUTES

11.1 Resolution of Recommendation for Award

The Director of Purchasing shall attempt to resolve informally all protests of bid award recommendations. Vendors are encouraged to present their concerns promptly to the buyer and/or Purchasing Manager for consideration and resolution. Open dialogue is helpful for all parties and disputes are often only a misunderstanding of the evaluation and recommendation process.

11.1.1 An interested party (bidder of standing or offeror) may protest to the Director of Purchasing a proposed award of a contract for supplies, equipment, services, or maintenance. A bidder of standing is a bidder who would be directly next in line for an award should the protest be supported.

1. The protest shall be in writing, addressed to the Purchasing Manager of the Purchasing Office with a copy to the Director of Purchasing and shall include the following:
 - The name, address, and telephone number(s) of the protester.
 - Identification of the solicitation.
 - Statement of reasons for the protest.
 - Supporting documentation to substantiate the claim.
 - The remedy sought.
2. The protest must be filed with the Purchasing Manager of the Purchasing Office within five (5) calendar days of the recommendation of award or notification to the bidder or offeror that their bid or proposal will be rejected.

11.1.2 The Director of Purchasing shall inform the Chief Operating Officer upon receipt of the protest.

11.1.3 The Director of Purchasing shall confer with the general counsel prior to issuance of a decision regarding disputes of contracts or awards in excess of \$50,000, or as deemed appropriate.

11.1.4 The Director of Purchasing shall issue a decision in writing. Any decision of a bid award protest may be appealed to the Chief Operating Officer within two (2) days of issuance of the

decision by the Director of Purchasing. The decision of the Chief Operating Officer shall be final.

11.2 Appeal of Contract Award Decision

11.2.1 A vendor may contest a contract awarded by the Board by filing an appeal to the Maryland State Board of Education as provided by Maryland's public school law.

11.3 Protest of Awards Less Than \$50,000

11.3.1 Protests or disputes of awards for less than \$50,000 shall be made to the Purchasing Manager and include the information as outlined in 11.1.1.

11.3.2 The Purchasing Manager shall review and make a determination as to the merit of the protest or dispute. Bidders may appeal this decision to the Director of Purchasing.

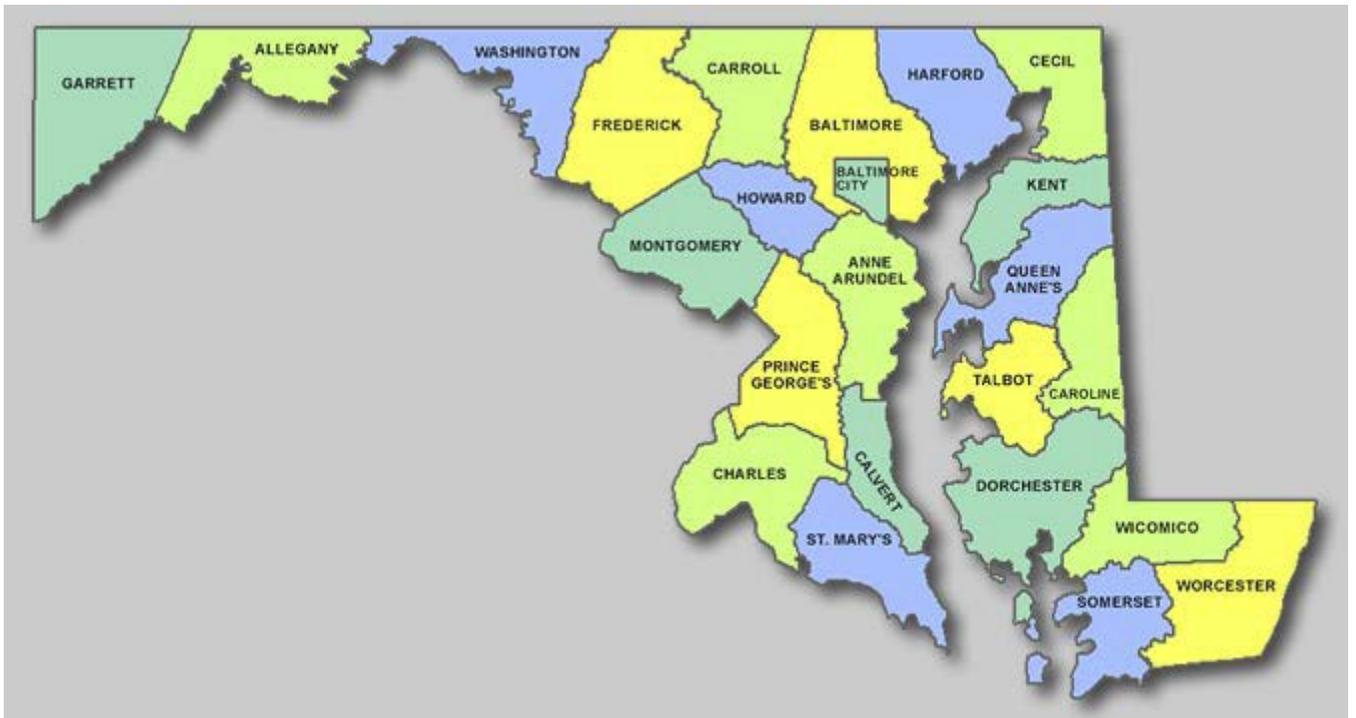
11.3.3 The Director of Purchasing will evaluate the issues involved and render a decision. The decision of the Director of Purchasing is final.



Section 12



Other Jurisdictions



12.0 SOLICITATION FROM OTHER JURISDICTIONS

The Director of Purchasing may authorize the use of a contract from another jurisdiction if the Director of Purchasing determines that the following applies:

1. The vendor has an existing contract with another public entity for the goods or services required by HCPSS.
2. Such contract promotes the best interest of HCPSS.
3. The contract between the entity and the other public entity was awarded as a result of adequate competition and in accordance with that entity's public procurement process.

The contract must provide HCPSS with materially the same goods or services being provided to the other public entity at the same prices being charged the other public entity.

All contracts from other jurisdictions require Board approval as stated for IFBs. The Board recommendation will include, if possible, the web link/address.

12.1 An office or entity desiring to procure an item using a bid from another jurisdiction must provide the following:

- The bid specifications.
- The award information.
- A memorandum stating the contract amount and vendor name.

The user must meet with the appropriate buyer to determine that the required documents have been obtained and to schedule approval of the bid on the Board agenda.

12.1 The Purchasing Office will obtain as reasonably as possible a copy of the original solicitation, the vendor's response, the bid tabulation or other evaluation criteria and the jurisdiction's award notice.

12.3 The Purchasing Office will assign a contract number (a bid number per the bid log) and maintain the contract information on file.



Section 13



Cooperative Bids

13.0 COOPERATIVE BIDS

- 13.1** HCPSS may enter into cooperative bids with other jurisdictions. A cooperative bid requires that all jurisdictions involved combine their requirements in one solicitation. Cooperative bids will obtain price advantage due to increased quantities and savings from issuing only one bid solicitation.
- 13.2** HCPSS may participate with other cooperative groups or consortiums. If these groups require a participation or membership fee, the costs involved will be borne by the requesting department or office.
- 13.3** The contracts of the cooperative group or consortium must be established for the purpose of assisting in the education of students and be awarded in accordance with an open, publicly conducted process.
- 13.4** The Board must approve the awards on all cooperative bids over \$50,000.



Section 14



Maintenance Services

14.0 MAINTENANCE SERVICES

Most equipment purchased carries a manufacturer's warranty for various periods of time. Check the warranty prior to contracting for service.

Equipment purchased from an HCPSS bid contract is usually warranted for one (1) year after receipt of the equipment. The warranty is handled by the vendor who supplied the product.

Full-Service Maintenance: Normally, requiring the contractor to provide scheduled services, preventive maintenance, necessary repair parts, and additional service calls as required may be on an annual contract. Normally, full-service maintenance contracts should be used only on an exceptional basis or when experience with a particular item or type of equipment indicates that maintenance/repair on an as-needed basis is not practical. In providing full-service maintenance, contractors include in their costs all possible contingencies that might occur during the contract period, which usually results in a higher cost.

Maintenance provided on equipment as needed after warranty, especially newer equipment that needs few or no repairs for a considerable period of time, is normally provided on a time-and-material cost basis. This method is usually more economical in the long-run than full-service maintenance.

Maintenance may vary from product type and manufacturer. Departments or office should consult with the Purchasing Office or other HCPSS appropriate service department prior to contacting a third party source for repairs. Such action may void valid warranties and incur unnecessary costs.



Section 15



Quality Assurance



15.0 QUALITY ASSURANCE

The four major activities of the Quality Assurance program are-

1. standardization (within limitations of federal, state, and local laws and procedures);
2. specification writing;
3. inspection; and
4. testing.

The Purchasing Office relies on complete and timely documented information (negative and positive) from the ultimate users of the goods and services that it procures. Personal preference is not appropriate in governmental purchasing. User complaints will be reviewed and given consideration in making procurement decisions. Attention by requestor on specifications is critical to getting the product at the right time. School system staff is encouraged to provide feedback on vendor performance. This feedback may be investigated and/or validated. The issue and outcome may then be recorded in the vendor file under “*Text*”.

The objective of the *HCPSS Procurement Manual* is to establish the standardization of procedure. Likewise, all bids and quotes will be retained and organized in a similar manner for consistency. All formal bids should contain the following sections: general terms and conditions, special notices, technical and/or performance specifications, proposal forms, supplier/vendor scorecard and signature/addenda acknowledgment.



Section 16



Purchase of Used Equipment



16.0 PURCHASE OF USED EQUIPMENT

The Purchasing Office may negotiate the purchase of used equipment, after receipt of a written statement from a person who is technically knowledgeable of the type of equipment purchased. In such documentation, the requestor shall verify the condition of the equipment, its future usefulness, that there is only one (1) source practicably available from which the used equipment can be procured, and justification as to why the purchase would promote the best interest of HCPSS. This documentation will be retained in the permanent procurement file. If the estimated total purchase price exceeds \$24,999, the Purchasing Office will follow formal bid procedures. The requestor may be responsible for obtaining all future maintenance support.



Section 17



Disposal of Property

17.0 DISPOSAL OF PROPERTY

The Director of Purchasing shall sell, transfer, trade, or otherwise dispose of the personal property belonging to HCPSS that has been deemed obsolete, unsafe and/or of no further significant use to the HCPSS for surplus (Reference Board of Education Policy 4080, *Disposition of Property*. This section does not apply to real property.

All obsolete items will be disposed of by one of the following five (5) methods, as determined by the Director of Purchasing. A tax ID number must be retained before delivering the item:

1. Make the property available for use by another division or office of the school system (School Swap)
2. Trade the property in toward the purchase of appropriate replacement item
3. Sell the property directly through competitive bidding/auction or for scrap
4. Donate the property with authorization from the Superintendent/designee
5. Discard the property as refuse and in compliance with any local, state, or federal requirements (e.g. hazardous materials).



Section 18



Customer Relations

18.0 Customer Relations

The Purchasing Office exists to supply the needs of HCPSS and various departments, in compliance with applicable laws and regulations. The Purchasing Office staff is receptive to counsel from colleagues and is guided by such counsel in keeping with the integrity, dignity and responsibility of the office.

The Purchasing Office is in contact with other departments and schools; cooperation and mutual confidence are essential. The Purchasing Office must have an understanding of the requirements of the various users of materials and services. Through observation; discussions with users in the schools, offices, vendors; and by keeping informed of current economy and technology, the Procurement staff strives to advance the interests of the Board.

It is also important that departments and schools have a full understanding of the various procurement practices and procedures that the Purchasing Office must follow. With this mutual understanding, the Purchasing Office will be in a better position to serve the needs of the staff and students.

Training is provided by the Procurement Department annually and on as needed basis.



Section 19



Unauthorized Purchases



19.0 UNAUTHORIZED PURCHASES

Whenever any officer or employee of HCPSS purchases or contracts for any supplies or contractual services contrary to the provision of the *HCPSS Procurement Manual*, such purchases or contracts shall be void and shall not be considered to be an obligation of the Howard County Board of Education.

Officers or employees of HCPSS found to have violated the provisions of the Board's policy or this manual may face employment discipline as appropriate to the offense.

A vendor's failure to notify the Purchasing Office of contracts contrary to Board Policy or the *HCPSS Procurement Manual* may **not** be compensated for services or goods provided.



Section 20



Vendor Relations



20.0 VENDOR RELATIONS – STAFF CONDUCT – CODE OF ETHICS

All transactions relating to the expenditure of appropriated and activity funds require the highest degree of public trust. To eliminate conflicts of interest or inappropriate conduct, HCPSS personnel are not authorized to solicit, demand, accept, or agree to accept from any vendor any payment, advance, deposit of money, services, and/or goods. Account managers should exercise caution when dealing with vendors to ensure that proper procurement procedures and policies are followed and the interests of HCPSS are protected. All vendor contacts are to be coordinated with the Purchasing Office.

The Purchasing Office must select vendors who are reputable and will promote the best interests of HCPSS. Quality, reliable delivery, and prices are factors to be considered when selecting or continuing business with a vendor.

All responsible vendors will be given an opportunity to present their products. Every effort will be made to establish strong and lasting relations with proven suppliers. The Purchasing Office will seek alternative sources as protection against the failure of vendors to deliver materials or services and as a means of securing better materials or reduced prices. Fundamental considerations relative to selection of vendors for bid activity are as follows:

1. Potential vendors must have a good business reputation and adequate financial standing and facilities to discharge their commitments. This will include verification that they are not on the Federal Debarment or Excluded Parties list and/or in “Good Standing” with the State of Maryland Taxation Office.
2. Every effort shall be made to select suppliers who are capable of producing high-quality products at low cost. Such suppliers should be able to seek business competitively and to realize a reasonable profit from their products.

20.1 VENDOR ACCESS TO INFORMATION

Except as provided herein, all proceedings, records, contracts, and other public records relating to procurement transactions shall be open to inspection in accordance with the Maryland Public Information Act. Interested parties may review public documents by appointment and at the convenience of HCPSS.

Any participating bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids, except in the event that HCPSS decides not to accept any of the bids and to reopen the contract.

Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed, except in the event that HCPSS decides not to accept any of the proposals and to reopen the contract. Proposal records shall be open to public inspection after award of the contract, subject to the provisions of this section.

Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

- 20.2** HCPSS staff and/or Board of Education members that have interest, ownership or other financial involvement in businesses that contract with the school system must disclose this relationship to the Director of Purchasing prior to entering into a contract. Unless extenuating circumstances exist, staff identified above may not solicit, conduct or do business with other staff, students or parents that they have a professional relationship or supervise or instruct.

21.0 CONFLICT OF INTEREST – FINANCIAL DISCLOSURE STATEMENT

As used below, the following terms have the meaning indicated:

A. "Financial interest" means: (1) Ownership of any interest as the result of which the owner has received, within the past three years, or is presently receiving, or in the future is entitled to receive, more than \$1000 per year; or (2) Ownership of more than three percent of a business entity, by a Board member or school system employee.

B. "Qualified Relative" means a spouse, domestic partner, parent, child, and sibling.

Except as disclosed below, the bidder has examined its business records and will state that to the best of its knowledge:

- No Board of Education member or school system employee, or their Qualified Relative, has a Financial Interest in the company or its holding company or a subsidiary;
and
- No Board of Education member or school system employee, or their Qualified Relative, is an officer, director, trustee, partner, or employee of the company or its holding company or a subsidiary;
and
- No Board of Education member or school system employee, or their Qualified Relative, is negotiating or has any arrangement concerning prospective employment with the company or its holding company or a subsidiary.



Section 21



Purchasing Card



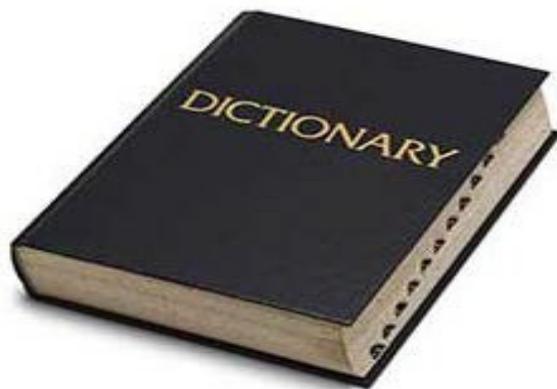
21.0 PURCHASING CARD

This section refers to the Purchasing Card Manual, contained herein by reference.

Section 22



Definitions



22.0 DEFINITIONS

22.1 ADVERTISE

To call public attention of intent to purchase or sell goods and services required by the Board of Education (Board), with the intent to increase responses and enlarge competition.

22.2 AWARD (OF CONTRACT)

A decision made by the Board of Education (Board) to accept a written proposal offered by a bidder for a contract of \$50,000 or more. For a contract of less than \$50,000, the Director of Purchasing or designee makes an award.

22.3 BID (FORMAL WRITTEN SEALED)

When an item or group of related items amount to more than \$50,000, formal bids are required. These are advertised and submitted in writing (usually according to a prescribed form), sealed, delivered, and opened at a prescribed time and place with the interested parties invited to be present.

22.4 BID TABULATION

A hand written or electronic document created at the time of a public bid opening that identifies specific information read and made public regarding a particular bid. It documents only the items identified at the public opening. The bid tabulation may be corrected as highlighted after review by the buyer.

22.5 BIDDER

Any individual, company, firm, corporation, partnership, or other organization bidding on a solicitation issued, and offering to enter into a contract.

22.6 BRAND NAME OR EQUAL (BNE)

A reference used to convey the general style, type, character, and/or quality of the goods desired (i.e., any good determined to be an approved "equal" of that specified, considering quality, workmanship,

economy of operation, and suitability for the purpose intended shall be accepted).

22.7 COMPETITIVE BIDDING

The submission of bid prices in response to either a verbal request for phone quotes, an unsealed or sealed Invitation for Bid (IFB) by individuals or firms competing for a contract to supply goods or services.

22.8 COMPETITIVE NEGOTIATION

A method of contracting for goods and/or services whereby proposals are solicited from qualified offerors, following submission of which negotiation takes place, usually resulting in changes in proposals and prices. The final offer deemed to be most advantageous in terms of established criteria as designated in the Request for Proposal (RFP) is accepted, and an award made to that offeror.

22.9 CONSULTANT

A person or company with experience which uniquely qualifies them to perform a specialized professional or technical service.

22.10 CONTRACT

A legally binding agreement, enforceable by law, between two or more competent persons to perform or not to perform a specified act or acts. The contract may be in the form of a purchase order, letter of intent, or formal written agreement signed by the parties.

22.11 EMERGENCY PURCHASE

A purchase required to protect personal safety, life, or property (e.g., an occurrence of a serious, urgent, and threatening nature that demands immediate action to avoid termination of essential services or a dangerous condition). Poor planning is not an “emergency.” The awarding of a contract due to a sudden and unexpected occurrence or condition which was unforeseen whereby life, health, safety, property, or interruption of the regular operation of the school system would be impacted as determined by the Chief Operating

Officer and/or Director of Purchasing.

22.12 IMMEDIATE FAMILY

A spouse, child, parent, brother, sister, and any other person living in the same household as the employee.

22.13 INDIVIDUAL SERVICES

Assistance provided to a specific project or assignment by an individual with specialized skills or expertise not available within HCPSS, whereby the purchasing of such service(s) is to augment permanent staff (e.g., technical editing, interpreting, training).

22.14 LETTER OF INTENT

A preliminary contractual arrangement customarily used in situations where items, quantities, price, and delivery dates are known, but where the principal contract provisions are incomplete.

22.15 PROCUREMENT

The formal act of contracting for materials, supplies, equipment, or services by means of price quotation, by telephone, in writing, or by formal bid; includes the combined functions of purchasing, inventory control, receiving, inspection, warehousing, salvage and disposal operations.

22.16 THE PURCHASING OFFICE

The office responsible for the procurement of materials, supplies, equipment, and services in accordance with Board of Education (Board) policy.

21.17 PROPOSAL

An offer made by one party to another as a basis for entering into contract.

22.18 PROPRIETARY SPECIFICATIONS

A purchase description that restricts the acceptable products to those

of one manufacturer, excluding the consideration of “equals” from different manufacturers. Proprietary items may be available from several distributors through competitive bidding.

22.19 PUBLIC BID OPENING

The process of opening and reading bids received at the time and place specified in the Invitation for Bid (IFB) (i.e., solicitation, in the presence of anyone who wishes to attend). The opening may be held in person or virtually given the specific circumstances.

22.20 QUOTATION

A statement of price, terms of sale, and description of goods or services offered by a vendor to a buyer.

22.21 REQUEST FOR PROPOSAL (RFP)

All documents, whether attached or incorporated by reference, utilized for soliciting proposals when the actual requirements to complete the scope of work are unknown. The Request for Proposal (RFP) will specify the evaluation factors to be used and contain or incorporate by reference other applicable contractual terms and conditions applicable to the procurement. In contrast to competitive bidding (Invitation for Bid), this procedure permits negotiation of proposals and prices.

22.22 REQUISITION/PURCHASE ORDER

A form used as the vehicle to request the Purchasing Office to procure goods or services from vendors. Once approved, the purchase order becomes the document which authorizes a vendor to deliver to the Board goods and/or services required for system operations and for which a general appropriation has been made.

22.23 BLANKET PURCHASE ORDER (BPO)

An open-ended contract given to a vendor to purchase certain items from that vendor. The blanket order will spell out all terms, conditions, delivery instructions, persons authorized to place orders and other consistent information, including prices for a specified period of time, but will not specify quantity. Blanket purchase orders

should not be used for items involving large sums of money if the needs and schedules can be accurately determined. Blanket purchase orders are used to eliminate a large number of rush and routine small-dollar-value transactions.

22.24 CHANGE ORDER

Document used to amend a purchase transaction previously formalized by a purchase order.

22.25 REQUISITIONER

A person, department, or school requiring the need for a product and/or service in order to support the operating program.

22.26 REQUIREMENTS CONTRACT

A form of contract covering long-term requirements used when the total quantity required cannot be definitely fixed but can be stated as an estimate or within maximum and minimum limits, with deliveries on demand.

22.27 RESPONSIBLE BIDDER OR OFFEROR

A person or vendor who has the capability and capacity in all respects to fully satisfy and perform the contractual requirements, and who has the moral, financial and business integrity and reliability that will ensure good faith performance.

22.28 RESPONSIVE BIDDER OR OFFEROR

A person or vendor who has submitted a bid or proposal response to an Invitation for Bid (IFB) or Request For Proposal (RFP) that conforms in all material respects to that specified in the solicitation.

22.29 SEALED BID

A bid that has been submitted in a sealed envelope to prevent its contents from being revealed, known, or compromised before the deadline set for the submission and opening of all bids. This may include the electronic submission of bids/proposals. Instructions for the submission shall be included in the specific solicitation.

22.30 SERVICE

Any work performed by an independent contractor wherein the payment is primarily for the services rendered rather than the acquisition of equipment or materials, or the rental of equipment, materials, and supplies.

Services - The rendering of time, effort, or work rather than the furnishing of a specific physical product. Includes, but is not limited to, the professional, personal, and/or contractual services provided by architects, engineers, attorneys, accountants, physicians, consultants, appraisers, land surveys, and where services are associated with the provision of expertise or labor, or both.

22.31 SERVICE CONTRACT

A contract entered into with a person or vendor that agrees to accomplish a certain result and has full control over the manner and method to be pursued. A service contract involves primarily labor-intensive tasks (either skilled or unskilled) that a contractor agrees to perform. Service contracts within this category do not include the professional services that are obtained under the policy for architectural and engineering services.

22.32 SOLE SOURCE

A product or service that is available from only one vendor (i.e., the company is the sole manufacturer and distributor, or specific unique requirements exist that cannot be reproduced in the market place). Additional applications would occur when bidding would not be practical or the Board would not gain benefit of better pricing. In the case of instructional related needs, staff has determined to the satisfaction of the Director of Purchasing that it would be impractical to seek or utilize another source.

22.33 SOLICITATION

A requirements document that outlines the procurement process and selection criteria to obtain goods and/or services to be delivered or

completed that is formally advertised to the general public. The process of notifying prospective bidders or offerors that HCPSS desires to receive bids or proposals for the acquisition of goods or services. This notification process consists of issuance of notification by an Invitation for Bid (IFB) or a Request for Proposal (RFP) to prospective bidders or offerors and posting applicable notices.

22.34 SPECIFICATIONS

A clear, complete, and accurate description of the materials, supplies, equipment, and services required by the Board of Education (Board) in a quotation or bid form.

22.35 USED EQUIPMENT

That which has been previously owned and used, excluding factory rebuilt, remanufactured, or demonstrator units.

22.36 VENDOR/SUPPLIER

A person or company that provides goods or services.



Section 23



Acronym Guide

23.0 ACRONYM GUIDE

- 23.1 **BOARD:** Board of Education
- 23.2 **COO:** Chief Operating Officer
- 23.3 **HCPSS:** Howard County Public School System
- 23.4 **IFB:** Invitation for Bid
- 23.5 **MBE:** Minority Business Enterprise
- 23.6 **MFD:** Minority/Female/Disabled
- 23.7 **RFP:** Request for Proposal
- 23.8 **RFQ:** Request for Quote
- 23.9 **SAF:** Student Activity Fund
- 23.10 **RFI:** Request for Information
- 23.11 **BOE:** Board of Education
- 23.12 **BFAO:** Best and Final Offer



Section 24



Forms and Examples

Forms and Examples

24.0 The following forms and examples represent the basic structure and content of the correspondence used to communicate with the public, staff, and others. The documents may be modified as necessary or appropriate to fit the application.

24.1 Bid Notice

24.2 Award notice

24.3 No award notice

24.4 Board Exhibits

24.5 Bid Tab

24.6 Sex Offender Notification

24.1 – Bid Notice



Date

To All Interested Bidders:

The Howard County Public School System invites your proposals to provide (brief description of scope of work including location of work and bid number).

Bids shall be submitted, sealed in the envelope, to the Howard County Department of Education, Purchasing Office, 10910 Clarksville Pike, Ellicott City, Maryland 21042 no later than the due date and time specified. Oral, telegraphic, telephonic, or late bids will not be accepted. It is the bidder's responsibility to insure that bids are delivered to the Purchasing Office prior to the scheduled opening time.

Bids will be publicly opened at the Howard County Department of Education, 10910 Clarksville Pike, Ellicott City, Maryland 21042 on (specify a date).

A pre-bid conference to be attended by all bidders will be held on (date and location). The Howard County Public School System staff will explain the scope of work and answer questions about the bidding specifications that will assist in the preparation of bids. Attendance is not mandatory, however, it is highly suggested.

Bid Documents may be obtained on or after (date) by contacting (specify pick up and contact information).

Bid Bond and other Bond requirements (are or are not) specified in the solicitation.

Please return the attached NO BID REPLY FORM if your firm does not bid this project.

The Board reserves the right to waive any informalities in, or to reject any or all bids.

Sincerely,

Procurement Specialist
Purchasing Office

24.2 Award Notice



Award Notice could take two forms:

A. Letter of Intent

The Purchasing Office from time to time and in order to preserve the proposed work schedule may issue a Letter of Intent. The purpose of the Letter of Intent is to inform the proposed awardee of the intent of awarding a contract to them and the time frame for doing so. Included in the letter is the statement that the Board of Education will only be liable for expenses incurred up to the point of official notification that the proposed firm is not being awarded the contract.

B. Notice of Award

The Purchasing Office will, within at least five working days of the award, issue notification to the awarded contractor that the firm was awarded the contract. The letter shall include notice of the items required post award and the associated return time and reference to the items awarded and status of issuance of a purchase order and/or "Notice to Proceed". The Contract Manager/Administrator issues the Notice to Proceed.



Via: Fax/mail/email

Vendor Name
Address
Address

Re: Award – Bid #000000 – Bid title

Dear Mr. Sir/Madame:

The Board of Education of Howard County, at its meeting on (date), approved the recommendation for award of Bid #000000, (title) to your firm.

The contract period is for one (1) year starting __ through _____. The Howard County Public School System has the sole option to extend the contract for five (5) additional one-year periods subject to satisfactory performance and available funds.

At this time, according to the bid document, please submit to the Howard County Public School System, Purchasing Department, 10910 Clarksville Pike, Ellicott City, MD 21042 the following:

(HCPSS staff), (phone number), is the Howard County Public School System's Contract Manager for this contract. Please contact (HCPSS staff) with any questions regarding this contract.

Sincerely,

(Name)
Procurement Specialist

cc: File

24.3 No Award Notice

Date

Vendor Name
Address
Address

RE: RFP 000000
Title

Dear Sir/Madame:

Thank you for your response to the Howard County Public School System's request for proposal to provide (title). We appreciate the time and effort exerted in preparation of your submission.

A careful and thorough evaluation was conducted to select the most appropriate firm to meet the needs of the school system. Unfortunately, we are not able to utilize your services at this time.

Thank you for your interest in this solicitation. Should you have any questions regarding the contents of this letter, please call me at 410.313.6722.

Sincerely,

(Name)
Procurement Specialist

c: file

24.4 Board Exhibits

Please see the HCPSS website, <https://www.hcpss.org/board/> at access "Boarddocs" for details and/or specific meetings.

Process for Board Report Preparation

Procurement specialists prepare individual Board exhibit

Submit to Director of Purchasing for review

A "PC" for competitive solicitations, "PR" for cooperative solicitation number is assigned and "PS" for sole source requests.

Director of Purchasing forwards to Secretary to prepare a cover page/Action item document

Board report is reviewed by Director of Purchasing and forwarded to Budget Office for review

COO approves, signs and forwards to Superintendent/Deputy Superintendent and Board for approval and signatures.

Once approved, the original remains with the BOE office and a copy is returned to the Purchasing Office.

Purchasing Office converts to PDF file and emails to:
BOE staff and appropriate staff.



24.5 Bid Tab Forms

- A. Bid Tab
 - 1. The bid tab records for the public record the information read in public during a bid opening and serves as a representation of the prices/information submitted.
 - a. Bid tabs shall be available for public inspection at a time and place designated by the buyer.
 - 2. Distribution.
 - a. The original bid tab shall remain in the bid folder.
 - i. The bid tab will be posted on the web page as early as possible.
 - ii. Notification will be issued to the requesting department/office of the posting.
- B. Bid tab forms shall be used.
 - 1. Bid information shall be recorded in a method and format consistent with the solicitation.

24.6 Sex Offender Notification

TERMS OF SERVICE APPLICABLE TO HOWARD COUNTY PUBLIC SCHOOL SYSTEM VENDORS

EDUCATION ARTICLE 6-113.2 AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, (print name) _____ possess the legal authority to make this Affidavit on behalf of _____ (Name of company).

B. SCREENING APPLICANTS FOR EMPLOYMENT UNDER A HOWARD COUNTY PUBLIC SCHOOL SYSTEM (HCPSS) CONTRACT

Effective July 1, 2019, Maryland Law requires contractors to screen all applicants for a position involving direct contact with minors as defined in Section 6-113.2 of the Education Article, Maryland Annotated Code (“statute”).

Screening requires the applicant to submit to the contractor the following:

1. Contact information of:
 - The current employer
 - All former school employers; and
 - All former employers of the applicant in which the applicant was employed in a position involving direct contact with minors.
2. Written consent form signed by applicant to release all records relating to child sexual abuse or sexual misconduct.
3. A written statement of whether the applicant:
 - Has been the subject of a child sexual abuse or sexual misconduct investigation by any employer, arbitrator, county board, state licensing agency, law enforcement agency, or child protective services agency, unless the investigation resulted in any of the findings listed in Section 6-113.2(B)(3)(i)(1-5), of the statute.
 - Has ever been disciplined, discharged, non-renewed, or asked to resign from employment, or has ever resigned from, or otherwise separated from, any employment while allegations of child sexual abuse or sexual misconduct were pending or were under investigation, or due to an adjudication or findings of child sexual abuse or sexual misconduct; or
 - Has ever had a license, professional license, or certificate suspended, surrendered, or revoked while allegations of child sexual abuse or sexual misconduct were pending or under investigation, or due to an adjudication or findings of child sexual abuse or sexual misconduct.

Before hiring an applicant for a position involving direct contact with minors, the Contractor shall:

1. Review an applicant's employment history by contacting employers listed by the applicant and requesting dates of employment and answers to questions regarding child sexual abuse or sexual misconduct required by the statute; and
2. Request a report from the Maryland State Department of Education regarding the applicant's eligibility for employment or certification status to determine whether the applicant a) holds a valid and active certification appropriate for the position and is otherwise eligible for employment; and b) has been the subject of professional discipline related to child sexual abuse or sexual misconduct.

If the information from an applicant's employer includes an affirmative response to the child sexual abuse or sexual misconduct questions, and the Contractor wants to further consider the applicant for employment, the Contractor shall request additional information from the employer including records related to the child sexual abuse or sexual misconduct.

Contractor shall conduct the employment history review of the applicant: 1) at the time of initial hiring of the employee; or 2) before the employee is assigned to work for a school entity in a position involving direct contact with minors.

Contractor shall maintain a record of each employee's employment history review required by the statute; and provide to HCPSS access to the employee's records upon request.

Before assigning an employee to perform work for HCPSS in a position involving direct contact with minors, Contractor shall provide notice to HCPSS of any affirmative responses to the child sexual abuse or sexual misconduct questions required by the statute.

Contractor may not assign an employee to perform work for HCPSS in a position involving direct contact with minors if HCPSS objects to the assignment after receiving notice required by the statute.

Notwithstanding any other remedies available under the Contract, Contractor may be subject to disciplinary action by the Maryland State Department of Education for willful violations of the statute.

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the requirements of Section 6-113.2 of the Education Article, Annotated Code of Maryland.

Violations of any of these provisions may result in immediate termination for cause.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (printed name of Authorized Representative and affiant)

_____ (signature of Authorized Representative and affiant)

STATE OF MARYLAND
CHILD SEXUAL ABUSE AND SEXUAL MISCONDUCT RELEASE

3 Pursuant to Section 6-113.2 of the Education Article, Annotated Code of Maryland

Contractor Information

4 Prior to officially offering employment to an applicant, the State of Maryland requires the local school board, nonpublic schools, or contractors to gather additional background information from an applicant's current/former employers in reference to child sex abuse or sexual misconduct investigations. In accordance with the law, each applicant must answer background questions and provide contact information for each place of employment in their work history.

The following steps will be required to successfully complete the process:

1. Determine how many past employers the applicant has worked for since he/she was 18.
2. The applicant must complete a Release Form {provided by MSDE} for each current/former employer.
3. The contractor must send this form directly to the current/previous employers.
4. The current/former employer has 20 days to respond with completed forms back to the contractor.
5. Once all forms are successfully completed and include favorable answers, contact the Office of Investigations with candidates who are eligible for hire.
 - a. The names of each candidate must be provided in writing (via email to the Howard County Public School System designee).
6. The contractor must keep these forms on file for each employee hired on or after 7/1/19.

Howard County Public School System will not hire anyone (permanent, temporary, or contractual) on or after 7/1/19 that has not completed the child sex abuse/sexual misconduct background check. This process must be completed for each new applicant.

MSDE has provided some guidance. Attached, is a list of common questions and answers, as well

as SB541. The official Release Form has not been provided by MSDE yet. We will notify you when the form is available or you can periodically check www.marylandpublicschools.org for updates.

MSDE Guidance for Md. Code, Educ. 6-113.2 (House Bill 486-Child Sexual Abuse and Sexual Misconduct Prevention)

The Maryland State Department of Education (MSDE) offers this guidance to assist public and nonpublic schools and contracting agencies with implementing the provisions of Md. Code, Educ. 6-113.2. The guidance does not include all of the statute's requirements, nor does it constitute legal advice. Schools and contracting agencies should consult with their legal counsel in addressing the requirements of the statute.

GENERAL INFORMATION

1. What employers are covered by the law?

A local board of education, nonpublic school, or contracting agency (defined as an entity that contracts with a county board or nonpublic school to provide a service to a school or the students of a school).

2. When does the law take effect?

July 1, 2019. Anyone who is an "applicant" for a position on or after July 1, 2019 is covered by the law. Employers do not need to follow the law's provisions for individuals who applied to positions prior to July 1, 2019.

3. What does the law require of employers and applicants for employment?

The law requires a county board, nonpublic school, or contracting agency to require an applicant for a position involving direct contact with minors to submit:

- 1) The contact information of the current employer, all former school employers, and all former employers of the applicant in which the applicant was employed in a position involving direct contact with minors;
- 2) A written consent form authorizing a current or former employer to release all records relating to child sexual abuse or sexual misconduct involving the applicant; and
- 3) A written statement of whether the applicant has:
 - a) been the subject of a child sexual abuse or sexual misconduct investigation by any employer, arbitrator, county board, state licensing agency, law enforcement agency, or child protective services agency (unless certain exceptions, detailed in the law, are met)
 - b) been disciplined, discharged, non-renewed, or asked to resign from an employer, or has ever resigned or otherwise separated from employment while allegations of child sexual abuse or sexual misconduct were pending or were under investigation, or due to an adjudication or findings of child sexual abuse or sexual misconduct;
 - c) ever had a license or certificate suspended, surrendered, or revoked while allegations of

child sexual abuse or sexual misconduct were pending or under investigation or due to an adjudication or findings of child sexual abuse or sexual misconduct.

4. What does the law require of prospective employers?

The law requires that a county board, nonpublic school, or contracting agency shall:

1) Review an applicant's employment history by contacting the current employer, all former school employers, and all former employers in which the applicant had direct contact with minors to request dates of employment and answers to the questions posed to applicants in question #3 (above).

2) Request a report from the MSDE regarding whether the applicant holds an active and valid certificate and has ever been the subject of professional discipline related to child sexual abuse or sexual misconduct.

5. What does the law require of current and former employers?

Within 20 days of receiving a request from a prospective employer, a current or former employer shall send the information required in question #3 (above) using a form approved by the MSDE. A current or former employer may also be required to produce additional information on an applicant (see #9 below).

6. Where can I find the employment history review form approved for use by the MSDE?

A copy of the form is attached to this guidance or can be found online at www.marylandpublicschools.org.

7. When must a prospective employer request the background information?

The law requires that a prospective employer review the applicant's employment history before hiring an applicant. See #20 for guidance on hiring an employee if a current or former employer has not responded to the request for information.

8. Does a current or former employer ever have to provide more information than what is required on the form?

Yes. If a prospective employer decides to further consider an applicant for employment after learning that a current or former employer has provided an affirmative response to one of the questions listed in #3, the prospective employer shall request additional information, including all records related to child sexual abuse or sexual misconduct. The current or former employer must provide this additional information within 60 days to both the prospective employer and the applicant.

9. Can an employer request more information from an applicant than is required under the law?

Yes. The law does not restrict a school or contracting agency from conducting further investigations of prospective employees or requesting applicants to provide additional background information.

10. Do the background information review requirements apply to current employees?

The requirements apply only to applicants for positions. Employers are not required to request background information on current employees. The law is silent on whether current employees who apply for new positions with the same employer where they would have direct contact with minors (thus becoming 'applicants' for a position) must complete the background information review. The MSDE encourages employers to apply the background information review requirements to all applicants for positions.

11. If an employer has already completed a background information review on an employee, must the employer request that same information if the employee becomes an applicant for a new position?

No. If a background information review has already been completed for all previous employers, there is no need to conduct a new one.

12. Must all former employers be contacted for background information?

The bill does not have a time limit on how far back in an employee's history one must go to retrieve background information. The MSDE recommends contacting all current employers, former school system employers, and former employers supplied by the applicant where an applicant had direct contact with minors.

13. What if a former employer is no longer in business?

A prospective employer should document all attempts to reach the former employer. If the former employer is out of business and no records are available, the prospective employer should document this information in the employee's personnel file.

14. Information does not have to be reported if a law enforcement agency found that the allegations were "unfounded." What does that mean?

Because law enforcement does not necessarily announce that allegations are "unfounded/" prospective employers can consider the closing of an investigation to be the equivalent to "unfounded" charges.

15. Information does not have to be reported if a child protective services agency "ruled out" the allegations. What if the agency screens them out without an investigation?

This may be considered the equivalent of "ruled out" for purposes of the law.

16. How does a prospective employer receive information about an employee's "eligibility for employment or certification status" from the MSDE?

The law requires the MSDE to indicate whether an applicant "holds a valid and active certification appropriate for the position and is otherwise eligible for employment." The MSDE has information on whether an individual is certified in Maryland and in what areas, and whether there has ever been disciplinary action on a certificate, such as a suspension or revocation. It is ultimately up to the

individual employer to determine whether to hire an employee based on the certification information provided by the MSDE.

For local school systems, the MSDE will make this information available through the Education Information System (EIS). Access can be granted under certain conditions, to trained local school system staff. Nonpublic schools and contracting agencies may contact the MSDE directly to obtain this information for applicants. If an applicant has never held a certificate, the MSDE will indicate that information in its response. A form requesting this information is available on the MSDE website at www.marylandpublicschools.org.

17. What must a prospective employer do if a current or former employer does not return the background information form? Can a prospective employer still hire the employee?

The law does not prohibit hiring an employee solely because a current or former employer has failed to report the background information requested. The prospective employer must, however, document each attempt to contact the current or former employer. MSDE recommends using multiple methods, if available, including regular mail, e-mail, phone, or fax, in an attempt to reach the employer. If, after three documented attempts, the current or former employer still has not responded, the prospective employer may hire the employee, but should note what information is missing from the employee's background. The prospective employer must also report the violation of the law to the MSDE for further action.

18. May a prospective employer begin training an employee prior to receiving the answers to the background information review?

Yes, but an applicant may not be hired until the prospective employer has either received answers to the questions from all current/former employers covered by the law or completed the process described in #17.

19. Are the employment history reviews required under this law considered to be public records?

No. "Information and records about an applicant received by a county board, nonpublic school, or contracting agency" under Md. Code, Educ. 6-113.2 are not a public record for purposes of the Maryland Public Information Act (PIA).

20. Can a former employer be held liable for disclosing information as part of an employment history review?

No. A person acting in good faith may not be held liable for disclosing any information or records related to child sexual abuse or sexual misconduct about a current or former employee unless the person acts with actual malice or intentionally or recklessly disclosed false information. This immunity is in addition to any other immunities provided by law.

21. Can a prospective employer use digital signatures or digital forms to comply with the law?

Yes. The MSDE is in the process of developing guidance for best practices involving digital signatures. Any system should be a secure and reliable form of receiving the background review information.

22. Can a prospective employer charge an applicant for processing the background review forms?

The law is silent in this regard and the MSDE has no position. It is up to individual employers to decide whether to charge a fee with the application.

23. Can a prospective employer require an applicant to forward the forms to current and former employers?

While a prospective employer may have an applicant forward the background information review forms to current or former employers, the responses to the form should go directly to the prospective employer. Prospective employers should not accept completed forms from an applicant on behalf of current or former employers.

NONPUBLIC SCHOOLS

24. What types of nonpublic schools must comply with the law?

The law applies to all types of nonpublic schools in Maryland. The law does not distinguish between nonpublic schools that are MSDE-approved and those that are not.

CONTRACTING AGENCIES AND SUBSTITUTES

25. Does the law apply to substitutes?

Yes. The law requires an employment history review of applicants for substitute positions involving direct contact with minors before the initial hiring of the substitute employee or placement on an approved substitute employee list. The completion of an employment history review in one county does not relieve another county of also conducting an employment history review of a substitute. A contracting agency may perform the employment history review for a substitute employee and its review may be used by all prospective employers of a substitute.

26. When does a contracting agency have to conduct an employment history review?

A contracting agency shall conduct an employment history review at the time of initial hiring of the employee or before the employee is assigned to work for a school entity in a position involving direct contact with minors.

27. How long is an employment history review conducted by a contracting agency valid?

As long as the employee continues to be employed by the hiring contracting agency.

28. Must a contracting agency keep records in connection with the employment history review?

Yes, a contracting agency must maintain a record of each employee's employment history review and, on request of the school entity to which an employee is assigned, provide access to the contracting agency's records of that employee.

29. Must a contracting agency inform a school entity of affirmative responses to questions posed in the employment history review?

Yes. Before assigning any employee to work in a school entity in a position involving direct contact with minors, a contracting agency shall provide notice to the school entity of any affirmative responses.

30. Can a school object to a contracting agency placing a specific employee at the school?

Yes. The contracting agency must provide information about whether the employee has any history of child sexual abuse or sexual misconduct as discovered in the employment history review. Based on that information, a school may object to the assignment of a particular employee in a position involving direct contact with minors.

FAILURE TO COMPLY WITH THE LAW

31. What happens to an applicant who provides false information related to child sexual abuse or sexual misconduct?

The individual may face professional discipline in the form of termination or denial of employment and may also face suspension, revocation, or denial of a professional license issued by the MSDE. The MSDE is in the process of developing regulations related to this provision.

32. What happens to a current or former employer who does not provide the information and records required under the law?

The current or former employer may face civil penalties or professional discipline for willful violations of the law's requirements. The MSDE is in the process of developing regulations to address this provision. A current or former employer shall not be held liable for failing to respond if the laws of the State in which the employer is located prohibit the release of that information or disclosure is prohibited by a contract entered into on or before June 30, 2019. The MSDE plans to initially send warning letters to current and former employers who are not complying with the law to make them aware of the law's requirements.

33. What should a prospective employer do if it learns that an applicant has provided false information or encounters a current or former employer that refuses to respond to the background information form?

The violation of the law should be reported to the MSDE along with all relevant documents or other information.

34. What if an employer becomes aware that an employee provided false information after the employee has been hired or learns of pre-employment allegations of child abuse or sexual misconduct after hire?

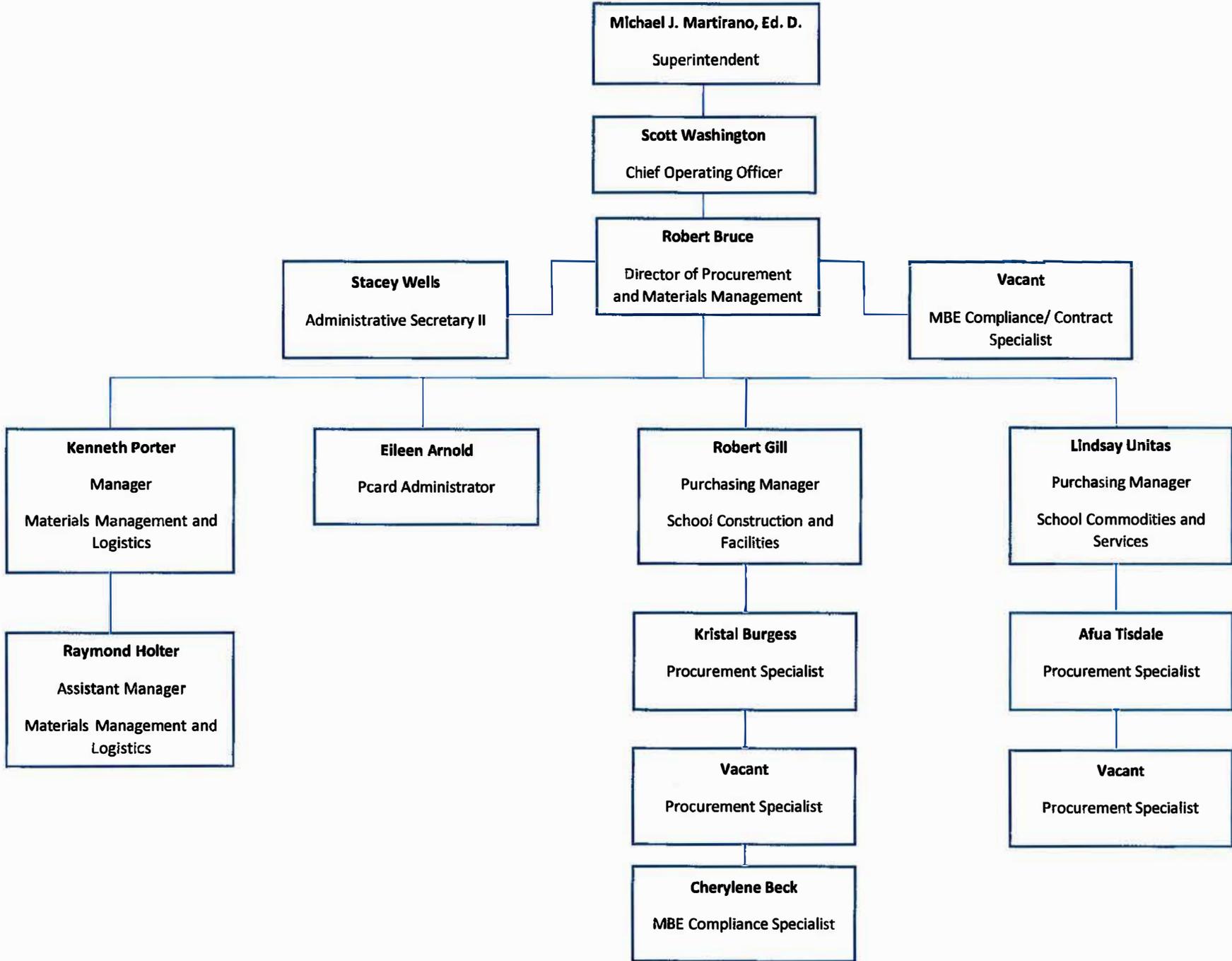
The employer may make any employment offer contingent on the results of the background information review and/or take whatever employment action it deems necessary. In addition, false information provided by an applicant or employee should be reported to the MSDE.

Section 25



Organizational Chart

Office of Purchasing



Section 26



Retention - Archiving of Documents

26.0 Retention and Archiving of Documents

The State of Maryland has approved a retention schedule. Contact the Purchasing Office for a copy.

Section 27



Training

Training notes and processes will be issued as available and posted for staff access.