

	ABERDEEN SCHOOL DISTRICT	NEPN Code: FEG
	POLICIES AND REGULATIONS	

CONSTRUCTION CONTRACTS BIDDING AND AWARD

Time for Preparation of Bids

Time periods for bidding are in accordance with state law. If the size and complexity of a project are such that additional time shall be required, this recommendation shall be made to the Superintendent.

Advertisements and Solicitations

All bids shall be advertised through the Finance Office. This district will advertise in the newspaper officially recognized at the annual School Board meeting or other newspapers of general circulation in the area as the School Board may designate. All contractors who have indicated an interest in school district work shall receive notices of bid openings on projects. Additional notifications shall be given in appropriate publications as they may be available.

Procedures for Receiving Bids

The School Board establishes the following procedure for the receiving of bids:

1. The School Board shall designate the time and place for receiving bids.
2. The bid opening will be designated at a specific time and location open to the public in the presence of two of the following School District employees:
 - A. The Superintendent or designee
 - B. The Finance Director or designee(s)
 - C. The Operations Director or designee(s)

Withdrawal and Modification of Bids

Any bid may be withdrawn by letter, electronic communications or in person, before the time specified in the advertisement. Any bid may be modified by mail or electronic communication, provided such notice is received no later than the time set for the opening of bids. The electronic communication cannot reveal the bid price but only the addition or subtraction of the bid price. An electronic communication may not be withdrawn after the opening of the bid and all electronic communications must be confirmed in writing before the awarding of the contract.

Awarding Contracts

If any of the proposals received shall be reasonable and satisfactory, the School Board shall award the contract to the lowest responsible bidder, but in case all the proposals shall be rejected, the School Board, before contracting for the construction of a public improvement, shall advertise anew in the same manner as before until a reasonable and satisfactory bid is submitted.

Bid Bond

The district may require each bid be accompanied by a certified check, cashier's check or draft for five percent (5%) of the amount of the bid, drawn on a bank domiciled in the state of South Dakota, or in lieu thereof, a bid bond in the amount of ten percent (10%) of the amount of the bid issued by a surety authorized to do business in this state.

Performance and Payment Bonds

Whenever any contract is entered into for the construction of public improvement, the contractor may be required, before commencing such work, to furnish surety in an amount not less than the contract price for the faithful performance of such contract. Such bond shall contain such provisions as are required by statute, and be in a form prescribed and required by the school district.

Contracts

Contract forms shall be prepared by the administrative staff in cooperation with an architect, engineer, and/or attorney. Such forms shall be designed in accordance with the state law as to format, terminology and methods of execution.

Contracts - General Conditions

When based upon plans and specifications prepared by an architect or engineer, the contract shall contain no general provisions at variance with the general conditions of the latest edition of the standard form of the American Institute of Architects, except when in conflict with the laws of this state.

Contracts - Signing of Documents

All contracts shall be made and set forth in writing and shall be signed by the Superintendent and Finance Director or by such other persons authorized to do so by the School Board in accordance with statutes regulating the signing of contracts.

Contracts with Architect

A separate contract shall be signed for each project with the architect selected by the School Board. The contract shall include statements outlining specific district requirements and procedures which must be followed by the architect.

Change Orders - Justification

The school district may make changes in the scope of the work required to be performed by the contractor by making additions or omissions without invalidating the contract, without relieving or releasing the contractor from any obligations under the contract or any guarantee given pursuant to the contract provisions, without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of the bonds. All such work shall be executed under the items of the original contract unless expressly provided otherwise.

If applicable unit prices are not contained in the agreement, the architect or owner shall, before ordering the contractor to proceed with desired changes, request an itemized proposal covering the work involved in the change after which the procedure shall be as follows:

1. If the proposal is acceptable, the architect shall prepare the change order for acceptance by the contractor.
2. Each change order shall include in its final form:
 - A. A detailed description of the change in the work
 - B. The contractor's proposal (if any) or a conformed copy
 - C. A definite statement as to the resulting change in the contract price and/or time
 - D. The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order
3. Change orders to an existing construction contract need not be bid if one of two circumstances exist: the contract contains unit prices for the same type or class of work; or the change or extra work is necessitated by circumstances not reasonably foreseeable at the time the underlying contract was let and the change or extra work is necessary to the completion of the project. All other contracts are subject to statutory bidding requirements.
4. Change orders exceeding \$10,000 need School Board approval.
5. Change orders less than \$10,000 will be reported to the School Board at the next regular meeting immediately following receipt of the change order.

Periodic Payments to Contractors

Contracts with contractors may permit progress payments, but if so, shall provide for retention of sums as prescribed by law until the contract is fully completed and accepted by date established by the School Board or by use and occupancy.

Lien Waiver from Subcontractors

Before making payments to contractors who have furnished skill, labor, materials, machinery, or supplies, services, or equipment, in connection with the carrying on of any work of construction, alteration, or repair of any public improvement work of the School District, the officers of the district may require that the contractor provide lien waivers, waiving any and all liens permitted by SDCL 5-22 or by other provision of law, signed by a subcontractor or supplier of skill, labor, materials, machinery, or supplies, services, or equipment, in connection with the project for which the contractor is seeking payment. A copy of this policy may be incorporated into all construction or repair contracts of the District which are subject to the requirements for advertised bidding, and into other contracts, in the discretion of the officers of the District.

LEGAL REFERENCES:

SDCL 5-18A Public Agency Procurement--General Provisions
SDCL 5-18A-5 Procedures for competitive sealed bids.
SDCL 5-18A-9 Emergency procurement.
SDCL 5-18B Procurement of Public Improvements
SDCL 5-18B-1 Plans and specifications--Advertisement--Availability.
SDCL 5-18B-2 Certified check or cashier's check for percentage of bid or bid bond required.
SDCL 5-18B-3 Waiver of check or bid bond requirement.
SDCL 5-18B-9 Return of certified check, cashier's check, or bid bond.
SDCL 5-18B-10 Plans and specifications prepared by architect or engineer.
SDCL 5-18B-11 Progress payments--Retention of funds from final payment--Interest.
SDCL 5-18B-12 Bond or deposit of securities in lieu of retention of sums due for work performed.
SDCL 5-18B-19 Amendment or change order to existing contract.
SDCL 5-21-1 Surety Bond Required - Obligations of Prompt Payment of Laborers and Material Men
SDCL 5-21-1.1 Waiver of Performance Security Requirement on Contracts less than Certain Amount
SDCL 5-21-2 Public Corporations, Civil Liability for Failure to Require Bonds for Protection of Laborers and Material Men
SDCL 5-21-4 Notice of Surety Bonds to Secretary of Revenue - Termination of Surety, Liability for Use and Excise Tax
SDCL 5-21-5 Laborers and Material Men Rights to Intervene in Action Against Public Contractor – Prorata Distribution If Surety Liability Insufficient
SDCL 5-22 - Liens Relating to Public Improvement Contracts
SDCL 9-42-12 Approval and Adoption of Work Required Before Payment - Progress Payments - Interest on Delayed Payments
SDCL 9-42-13 Payment Due on Occupancy of Improvement Before Completion
SDCL 13-8-39 Management of Schools by Board - General Powers
SDCL 13-10-2 General Power of School Boards to Employ Personnel
SDCL 13-20-1 Board approval required for contracts
SDCL 13-20-3 Contracts let in accordance with public agency procurement law.
SDCL 13-20-4 Emergency maintenance needs corrected in accordance with public agency procurement law.
SDCL 13-20-5 Purchases from another school district without advertising for bids.
SDCL 13-20-6 Purchase of Copyrighted Material Without Advertising for Bids
SDCL 13-20-7 Deposit and Performance Bond Required of Supply and Equipment Bidders - Right to Reject Bids
SDCL 13-20-7.1 Deposit and performance bond by school improvement bidders--Rejection of bids.
SDCL 13-20 School District Purchases and Contracts
SDCL 13-24-9 School board power to erect, acquire, equip and dispose of school and accessory buildings--Dormitories for postsecondary students prohibited.

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