

A photograph of an auction in progress. In the foreground, a man in a light-colored suit and tie looks upwards with a focused expression, holding a small white card. Behind him, other men in suits are visible, some with their hands raised in the air, indicating they are bidding. The background is bright and slightly out of focus, emphasizing the participants.

GOING ONCE, GOING TWICE: BIDDING

Bidding

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CHAPTER 1: INTRODUCTION

BIDDING

The structure of the bidding process is defined by statute. The process begins with the public advertisement for bidders. This advertisement describes work divided into trade packages. It indicates where the documents can be obtained and states the date, time, and place of the public bid opening. It establishes a time and place for a pre-bid conference during which the Contractors can ask questions related to the project. Sealed prime contract bids are received at the bid time and publicly opened, read aloud and tabulated.

Evaluate Bidders

After the bid opening meeting, the apparent low bidders are evaluated to determine whether they are responsible according to criteria set forth in law. The Bid Packages are carefully examined by district counsel and the CM for compliance with the Bidding Requirements.

Enter Into Contracts

Within 60 days of the receipt of bids the CM and low bid Contractors work together to prepare Construction Contracts for the work on form documents provided by OSFC. The Contracts are approved by Resolution of the Board of Education and the Commission.

Trade Contractor Partnering

Similar in format to the previous day-long Executive Partnering Session, the Trade Contract Partnering Session introduces the Prime Contractors to the team. Objectives and concerns are discussed, communication channels are established and dispute resolution procedures are agreed upon.

Ohio School Facilities Commission
Classroom Facilities Assistance Program
Responsibility Chart

School District

Commission

Selection of Architect

Selection of CM

Disposition of Abandoned Facilities

Specify Standard Contract Documents

Site Selection

Right of Action if site is unsuitable (Section 3318.08 ORC)

Program Choices

Approval of Program of Requirements

Design and Material Choices

Approval of SD, DD and CD

Recommend Special Conditions of Contract

Approval of Final Bid Documents

Bid Evaluation

- reject all bids
- rebid contract(s)
- determine lowest responsible bidder

Approval of Bid Evaluation Decisions

Fund/Lien Management

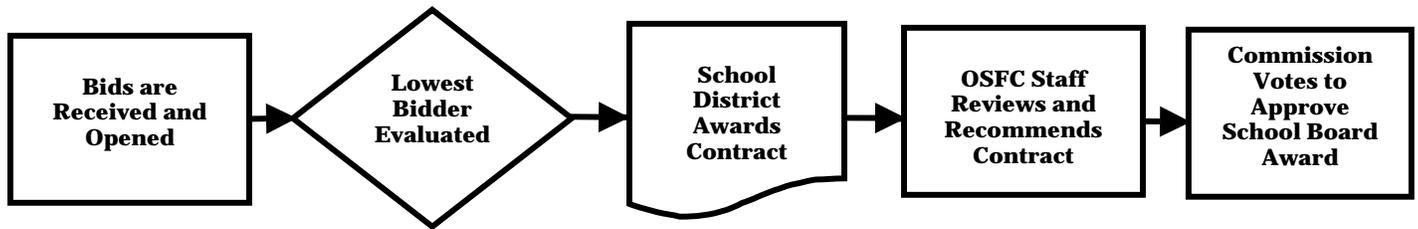
Approval of Invoices

Provide Maintenance Plan

Approval of Plan

Claim Decisions

COMPETITIVE BIDDING PROCESS



BIDDER RESPONSIBILITY ANALYSIS

- Sealed Bids Opened and Tabulated
- Apparent Low Bidder from Base Bid and Any Alternates
- CM and Architect Evaluation Using 9.312 Factors
- Responsibility Analysis is Project by Project Basis

BID EVALUATION CRITERIA

- 9.312 Responsibility is Defined to Include:
 - Compliance with all Material Requirements (bond, licensing, certification);
 - Experience of the Bidder;
 - Financial Condition of the Bidder;
 - Conduct and Performance of the Bidder on Previous Contracts;
 - Facilities of the Bidder;
 - Management Skills of the Bidder;
 - Ability of the Bidder to Execute the Contract Properly.
 - School Board Review of Recommendation and Resolution Finding Contractor not Responsible for this Project using 9.312 Factors
 - School Board Award Contract to the Lowest Responsible Bidder

PROTEST MEETING

- School Board Notifies Rejected Contractor by Certified Mail
- If Protest within Five Days, a Protest Meeting Occurs with Representatives of the School District and the Commission Staff

POST PROTEST MEETING

- After Protest Meeting, School Board Representatives and OSFC Staff Conduct Independent Review
- If the School District Affirms the Rejection, then Additional Resolution by the School Board Awarding to the Lowest Responsible Bidder

COMMISSION ACTION

- •OSFC Staff Recommendation to the Commission Based on 9.312 Factors
- •Commission Votes on Approval of Award of Contract to Lowest Responsible Bidder

RESOLUTION 07-98

**THE OHIO SCHOOL FACILITIES COMMISSION
JULY 26, 2007****AMENDING MODEL RESPONSIBLE BIDDER REQUIREMENTS LIST
AND APPROVING ADDITIONAL BIDDER CRITERIA
RELATED TO THE CONSTRUCTION WORKFORCE**

WHEREAS, the 122nd Ohio General Assembly established the Ohio School Facilities Commission (Commission) under Chapter 3318 of the Ohio Revised Code (ORC); and

WHEREAS, the Commission is committed to ensuring that schools are built by responsible contractors employing a qualified workforce; and

WHEREAS, Section 3313.46 of the Ohio Revised Code requires School Districts to award contracts to contractors submitting the lowest responsible bid after competitive bidding; and

WHEREAS, Section 3318.10 of the Ohio Revised Code provides discretion for a Board of Education, subject to Commission approval, to determine which contractor is the lowest responsible bidder; and

WHEREAS, the Commission is committed to allowing additional local control to individual School Districts which will ultimately own the school buildings, and have responsibility for the upkeep and maintenance of the school buildings; and

WHEREAS, on February 15, 2007, the Commission adopted Resolution 07-16 which included Attachment A; Model Responsible Bidder Requirements which would be approved if adopted, in whole or in part, by a School District without further Commission approval; and

WHEREAS, the Commission has determined it is necessary to amend the Model Responsible Bidder Requirements adopted on February 15, 2007 as Attachment A to Resolution 07-16; and

WHEREAS, the Commission has determined to allow, subject to Commission approval, a School District participating in a Commission program to determine additional standards related to the construction workforce.

NOW, THEREFORE BE IT RESOLVED THAT:

1. A School District participating in a Commission program shall have authority by resolution of its Board of Education to establish responsible bidder criteria to ensure the projects are completed by responsible contractors employing a qualified workforce.

2. The responsible bidder criteria adopted by the Board of Education are subject to Commission approval. Subject to legal review by the Commission, all submissions by Boards of Education which contain any or all of the responsible bidder criteria as set forth in Attachment A to this Resolution shall be considered approved by the Commission. The responsible bidder criteria set forth in Attachment A to this Resolution, entitled Model Responsible Bidder Workforce Standards, replaces those responsible bidder criteria entitled Model Responsible Bidder Requirements set forth in Attachment A to Resolution 07-16 adopted by the Commission on February 15, 2007.
3. The Commission authorizes its Executive Director to approve of additional responsible bidder criteria submitted by a Board of Education to the Commission for approval.
4. Following the adoption of a Resolution of a Board of Education to establish responsibility criteria for bidders and following approval by the Commission, the Commission authorizes the Executive Director to permit a School District to include the responsible bidder criteria in the contract documents.
5. For projects advertised after October 1, 2007, the Executive Director shall only approve contracts in which the Bidder has certified that it, and its subcontractors or any other contractor performing work on the project covered under the contract of the Bidder, it has implemented a written safety program, that each member of its job site workforce has completed an OSHA 10 or 30 Hour Construction Course, and that all project supervisors and all project foremen have completed an OSHA 30 hour Construction Course.
6. The Executive Director is authorized to waive or amend provisions of a School District's Project Agreement to facilitate the implementation of this Resolution.
7. The provisions of this Resolution shall not be used to contravene Ohio's Encouraging Diversity Growth and Equity ("EDGE") Program as established by the Ohio General Assembly and implemented by the Commission.

In witness thereof, the undersigned certifies the foregoing Resolution was duly adopted at an open meeting held on July 26, 2007 by the members of the Ohio School Facilities Commission.


J. Pari Sabety, Chair

Attachment A

THE OHIO SCHOOL FACILITIES COMMISSION
MODEL RESPONSIBLE BIDDER WORKFORCE STANDARDS

The following responsible bidder criteria may be included, by a resolution of a Board of Education, in the construction contracts for school building projects undertaken pursuant to Chapter 3318 of the Ohio Revised Code. These responsible bidder criteria are reasonably related to performance of the contract work within the statutory framework set forth in Section 9.312 of the Ohio Revised Code. The responsible bidder criteria shall be evaluated in accordance with Section 3.4.3 of the Instructions to Bidders.

1. As a condition precedent to contract award after bid, The Board of Education may undertake with the Bidder a Constructability and Scope review on projects of One Hundred Thousand Dollars (\$100,000.00) or more to verify that the Bidder included all required work.
2. The Low Bidder whose bid is more than twenty percent (20%) below the next lowest bidder shall list three (3) projects that are each within seventy-five percent (75%) of the bid project estimate for similar projects and that were successfully completed by the bidder not more than five (5) years ago. This information shall be provided if necessary at the post-bid scope review.
3. The Bidder shall certify it will employ supervisory personnel on this project that have three (3) or more years in the specific trade and/or maintain the appropriate state license if any.
4. The Bidder shall certify it has not been penalized or debarred from any public contracts for falsified certified payroll records or any other violation of the Fair Labor Standards Act in the last five (5) years.
5. The Bidder shall certify it has not been debarred from public contracts for prevailing wage violations or found (after all appeals) to have violated prevailing wage laws more than three times in the last ten years.
6. The Bidder shall certify it is in compliance with Ohio's Drug-Free Workplace requirements, including but not limited to, maintaining a substance abuse policy that its personnel are subject to on this project. The Bidder shall provide this policy or evidence thereof upon request.
7. The Bidder for a licensed trade contract or fire safety contract shall certify that the Bidder is licensed pursuant to Ohio Revised Code Chapter 4740 as a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, or certified by the State Fire Marshall pursuant to R.C. 3737.65.

8. The Bidder shall certify it has not had a professional license revoked in the past five years in Ohio or any other state.
9. The Bidder shall certify it has no final judgments against it that have not been satisfied at the time of award in the total amount of fifty percent (50%) of the bid amount of this project.
10. The Bidder shall certify it has complied with unemployment and workers compensation laws for at least the two years preceding the date of bid submittal.
11. The Bidder for a trade licensed pursuant to Ohio Revised Code Chapter 4740 or requiring certification of the State Fire Marshall pursuant to R.C. 3737.65, shall certify that the Bidder will not subcontract greater than twenty-five percent (25%) of the labor (excluding materials) for its awarded contract, unless to specified subcontractors also licensed pursuant to Ohio Revised Code Chapter 4740 or certified by the State Fire Marshall pursuant to R.C. 3737.65
12. The Bidder shall certify it does not have an Experience Modification Rating of greater than 1.5 (a penalty rated employer) with respect to the Bureau of Workers Compensation risk assessment rating.
13. The Bidder shall certify that it will provide a minimum health care medical plan for those employees working on this project, and shall provide the policy or evidence thereof upon request.
14. The Bidder shall certify it will contribute to an employee pension or retirement program for those employees working on this project, and shall provide the plan or evidence thereof upon request.
15. The Bidder shall certify it shall use only construction trades personnel who were trained in a state or federally approved apprenticeship program or Career Technical program, or who are currently enrolled in a state or federally approved apprenticeship program or Career Technical Program, or who can demonstrate at least three years experience in their particular trade.
16. The Bidder shall certify it has not been debarred from any public contract; federal, state or local in the past five years.
17. The Bidder shall certify that it, and its subcontractors or any other contractor performing work on the project covered under the contract of the Bidder, shall pay the prevailing wage rate and comply with the other provisions set forth in Ohio's Prevailing Wage Law, R.C. 4115.03 through 4115.16, and O.A.C. 4101:9-4-01 through 4101:9-4-28. This includes, but is not limited to, the filing of certified payroll reports.

18. The Bidder shall certify that it, and its subcontractors or any other contractor performing work on the project covered under the contract of the Bidder, shall comply with the requirements of a project labor agreement adopted for use on the project.

A material breach of the responsible bidder criteria prior to, or during the contract performance, shall subject the contractor to all contractual remedies, including, but not limited to, termination for cause.

Encouraging Diversity, Growth and Equity (EDGE)

As its name suggests, the State of Ohio's **ENCOURAGING DIVERSITY, GROWTH AND EQUITY (EDGE)** program provides an EDGE to small businesses by Encouraging Diversity, Growth and Equity in public contracting. EDGE is an assistance program for economically and socially disadvantaged business enterprises.

The overall goal of the EDGE program is to encourage, nurture and support the growth of economically and socially underutilized businesses to foster their development and increase the number of qualified competitors in the marketplace.

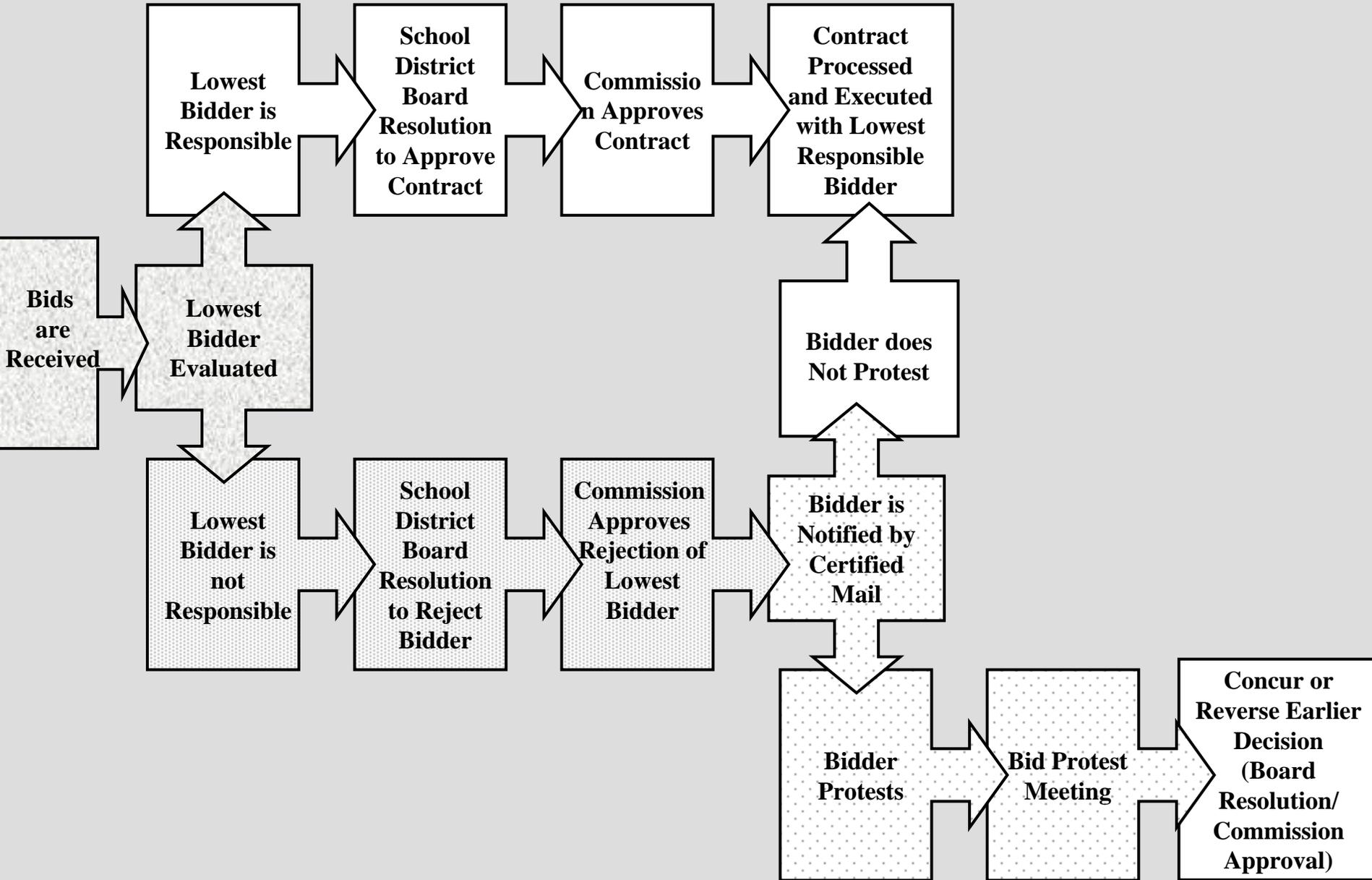
EDGE establishes goals for state agencies, boards and commissions in awarding contracts to certified EDGE eligible businesses. An EDGE participant must be a small socially and economically disadvantaged business enterprise owned and controlled by U.S. citizens who are Ohio residents. Additional information regarding EDGE is available at the EDGE Web Site at www.EDGE.ohio.gov

OSFC-funded construction projects first advertised after May 16, 2006 must incorporate the EDGE component into the project. The EDGE Participation Goal is 5% of the contract award amount.

Proposers for professional services agreements with OSFC, as well as bidders on construction contracts on OSFC-funded projects, must demonstrate actual participation in the EDGE program, or provide a demonstration of their good faith efforts (with supporting evidence) to participate in the EDGE program, or both.

For more information about the EDGE program and how it relates to construction contracting, contact OSFC at program.info@osfc.state.oh.us or call Cheryl Lyman at 614.466.6290.

BIDDER EVALUATION PROCESS





CERTIFICATION OF CONTRACT REQUIREMENTS

Project Name: _____

Contractor: _____

Bid Package No: _____ **Contract Amount:** _____

Bid Opening Date: _____ **Rebid Opening Date:** _____

The undersigned certifies that the following conditions precedent for contract execution are satisfied and certifications required are current and recommend approval by the Commission.

_____ Bid Price or Total Aggregate of Contracts for Project not in excess of 10 percent of Estimated Cost

_____ Bid Extension Agreement (if applicable per Section 153.12, ORC)

_____ Bid or Rebid Notification Advertised pursuant to legal requirements

_____ Contract Bond complies with legal requirements

_____ Ohio Worker's Compensation Certificate

_____ **EEO Certificate of Compliance**

_____ Delinquent Personal Property Tax Affidavit

_____ Department of Insurance Certificate of Compliance

_____ If Out-of-state Corporation, Ohio Secretary of State Certificate

_____ All Contracts Executed by Contractor

_____ All Contracts and Fund Certifications Executed by School District

_____ Contractor's Certificate of Insurance

_____ **Enrolled in BWC Drug Free Workplace Program or Equivalent, including 5% Random Drug Testing**

_____ Declaration Regarding Material Assistance/Non Assistance to Terrorist Organization

_____ Commitment of EDGE Business Participation (EDGE BP Form)

_____ **Board Resolution Referenceing Compliance with ORC 3313.41**

_____ **Bid was Lowest Bid Received**

For a demolition contract that does not have language referencing compliance with O.R.C. 3313.41 in the board resolution awarding the contract, please explain.

If bid was not lowest bid received (i.e., there was a bid withdrawal and/or bid rejection), please explain.

Verification by Construction Manager

Company

Phone

Name

E-mail

Date

Return to Address: _____

Comments: _____

PA

Signature

Date



OHIO
SCHOOL
FACILITIES
COMMISSION

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Bob Taft

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Office of Budget and Management

Director C. Scott Johnson, Vice Chairman
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Dr. Susan Tave Zelman
Superintendent of Public Instruction

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Representative William Hartnett

Senator Teresa Fedor

Senator William Harris

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MEMORANDUM

To: Construction Managers
Project Administrators

From: Crystal Canan *Crystal Canan*
Chief of Projects

RE: Subcontractor DFWP Enrollment

Date: January 11, 2005

OSFC implemented its Drug Free Workplace Program (DFWP) effective July 1, 2003. The DFWP adopted by the Commission requires a successful bidder to be in good standing in the Bureau of Workers' Compensation (BWC) DFWP as a condition precedent to contract award. As implemented, each prime contractor is obligated to ensure their subcontractors are enrolled in the BWC DFWP.

Information has been provided to the Commission that indicates that not all subcontractors are enrolled in the BWC DFWP. To ensure there is no compromise in worker safety or quality projects, we are asking all construction managers to take two actions:

1. Hold prime contractors responsible. Subcontractors listed on Form 26 are required to be enrolled in the BWC DFWP. To verify DFWP enrollment for a subcontractor, go to BWC's website at: <http://www.ohiobwc.com>. If a subcontractor is not enrolled, please notify the prime contractor immediately that this violates the contract and copy your Project Administrator on any such notice.

2. Amended Form 26. Attached to this memo is a copy of the amended Form 26, which provides for the prime contractor's certification in signing the form that all subcontractors are enrolled in the BWC DFWP. This form is updated on the Commission's website. Please use this amended form immediately.

Thank you for your efforts in this matter. Please contact your Project Administrator with any questions.

Attachment:
Revised Form 26



INPUT FORM NO 26: SUBCONTRACTOR'S DECLARATION

Contractor's Contract No. SFC-

Your Federal ID Number: _____

Project Name and Location: _____

School District Name/County: _____

Prime Contractor's Name: _____

Prime Contractor's Address: _____

Phone Number: _____

Please Estimate the Following:

1. Your job duration (in weeks) _____
2. Your starting work date (month/year) _____
3. Your peak activity at construction site (month/year) _____
4. Your total combined work force, including all subcontractors _____

Complete for all subcontractors, specify brand name of their material:

Name: _____ Type Work: _____

Address: _____ Brand Name: _____

City: _____ Phone: _____

State: _____ Zip: _____

Name: _____ Type Work: _____

Address: _____ Brand Name: _____

City: _____ Phone: _____

State: _____ Zip: _____

Name: _____ Type Work: _____

Address: _____ Brand Name: _____

City: _____ Phone: _____

State: _____ Zip: _____

The Contractor listed above certifies that the subcontractors listed on this form are enrolled in the Bureau of Workers' Compensation's (BWC) Drug-Free Workplace Program (DFWP) or Drug-Free EZ program for small employers (DF-EZ). To verify DFWP enrollment for a subcontractor, go to BWC's website at: <http://www.ohiobwc.com>

Reviewed By: _____

_____ Date _____ Date

Prime Contractor Signature _____ Construction Manager Signature

Prime Contractor Name _____ Construction Manager Name _____

(Please type or print) (Please type or print)

POLICY and PROCEDURE MEMORANDUM

FURNITURE PROCUREMENT

Applicable to: CFAP, ENP, VFAP, ELPP, VFAP-ELPP and Accelerated Urban Programs

General Guidelines

The furniture and equipment in school facilities is an important component of a School District's educational program. This policy is to provide guidance to the Architect, Construction Manager, School District and the Commission's Project Administrator in developing a procurement strategy for the furniture and equipment for a new or renovated school facility. This policy applies to purchases of furniture and certain types of equipment only. Furniture is movable and is not permanently attached to the structure. Any fixture that is permanently or semi-permanently attached to the structure should be bid as part of the construction. This policy does not apply to computer systems, telecommunications systems or similar equipment that may be subject to School Net policies.

The School District and Commission, through their designated representatives, will approve the furniture and equipment purchasing plan, taking into consideration the following factors:

1. The nature of the furniture or equipment, whether it be a relatively standard commodity or something that has integral functionality with the School District's programming needs;
2. The School District's organization plan for evaluating the products of multiple manufacturers;
3. The Architect's organizational plan and service capabilities to coordinate the evaluation of multiple manufacturer's products.

Procurement Options

A. Competitive Bid

Whenever possible, a sealed competitive bid process should be considered. The School District should open bids publicly, utilize a fair evaluation process, and award a contract promptly.

B. Cooperative Purchasing Program

The Cooperative Purchasing Program allows School Districts to purchase goods from state term schedules. State term schedules are contracts, issued and administered by the State of Ohio, Department of Administrative Services (DAS), on behalf of the state and other public entities eligible to participate. State term schedules list the manufacturer, type of goods offered, and a fixed price for the goods that has been negotiated by DAS.

In order to participate in the program, the School District must:

- Pass a board resolution authorizing participation in the program;

- Pay an annual administrative fee;
- Provide DAS with quarterly reports as to the district's usage of the program.

Once in the program, School Districts order directly from the vendor and make payments to the vendor at the prices set forth in the state term schedules. School District should evaluate multiple state term schedule options and the prices offered by manufacturers should be compared and may be negotiated.

The following language may supplement the purchase order issued by the School District for a state term purchase: "Supplemental terms and conditions provided in the Ohio School Facilities Commission Standard Conditions of the Contract for Construction (Standard Conditions) shall apply to this Purchase Order for the performance of work and/or purchase of materials or equipment. The Standard Conditions are available through the office of the Construction Manager. In the event of conflict between the terms and conditions of the state term contract and the Standard Conditions, the provisions of the Standard Conditions shall prevail."

Additional information about the program can be found at www.state.oh.us/das/gsd/Coop/ods.htm. State term schedules are available at: <http://www.state.oh.us/das/gsd/pur/alphalist.htm>, and <http://www.gsd.das.state.oh.us/purch/sts/stslistnew.htm>. Both lists should be checked as some vendors appear on one, but not the other. Additional information may also be obtained by contacting the Office of Cooperative Purchasing at 614-644-8495.

C. Direct Purchase

School Districts can also purchase furniture or equipment directly from vendors. To proceed with a direct purchase option, the Commission will require a School District Board to take appropriate action to authorize the purchase. In some cases, direct purchase is the only practical method of buying furniture or equipment.

Where possible, the School District should obtain two or more quotes from different suppliers. School Districts should already have a policy regarding such direct purchases that address the process, as well as ethical and legal considerations involved. A standard policy might require that quotes be written down in a log noting the vendors called, the description of the furniture priced, and the price given. Once a vendor is chosen, the School District should receive written confirmation of the price quoted. A purchase order or written sales contract should then be written.

D. Requirement for a Contract Bond

A School District may, as a condition precedent to issuing a purchase order or contract for material or equipment through state term schedules or direct purchase, require a Contract Bond to assure the performance of the work. A Contract Bond is recommended when the purchase involves a material labor commitment to install the material or equipment.