

QUICK GUIDE TO

Competitive Bidding Procedures for Charter School Boards

Charter school boards are responsible for properly stewarding financial resources. They have been given the trust of the public to ensure the state and federal funds that they receive are spent in a way that ensures the best value for goods and services and will provide a quality education for students. In order to ensure state and federal funds are spent wisely, it is important that charter school boards follow state and federal purchasing and contracting laws, adopt purchasing policies, set competitive bidding thresholds and adopt guidelines for when a contract must go before the board for approval.

Charter school board members should review their charter contract to see if it includes any requirements or guidelines regarding the procurement of goods and services. Charter schools must adhere to any procurement requirements found in their contract that go beyond state and federal requirements. It is important that charter school boards understand procurement requirements found in the school's contract and in state and federal laws and regulations.

Competitive Bidding Requirements for Purchases Using State Funds

In general, the three types of contracts that a charter school board will encounter when contracting for goods and services include public works contracts, professional service contracts and other goods and services. Under Texas law, each of these contracts is handled in a slightly different manner.

Public Works Contracts

Public works contracts include any work that is done to improve the school's property such as construction, repairs and renovations that are over \$50,000. Charter schools may follow the competitive bidding procedures found in Chapter 271 of Texas's Local Government Code which include timely newspaper advertisements, sealed bids, a public bid opening, and awarding a contract to the lowest responsible bidder. If a charter school chooses to not follow the specific competitive bidding procedures outlined in Chapter 271 (<https://statutes.capitol.texas.gov/Docs/LG/pdf/LG.271.pdf>), they should have other safeguards in place for ensuring that public funds are spent wisely and ethically.

Professional Services Contracts

Unlike public works contracts, professional services contracts are not to be based on competitive bids but rather on competence, demonstrated qualifications and fair and reasonable prices. Chapter 2254 (<https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2254.htm>) of Texas's Professional Services Procurement Act provides guidelines for how charter schools should secure professional services. Under Texas law the following services are defined as professional services:

- Accounting
- Architecture
- Landscape Architecture
- Land Surveying
- Medicine
- Optometry
- Engineering
- Real Estate Appraising
- Professional Nursing

Other Goods and Services Contracts

There are many other goods and services that a charter school may purchase that do not fall under public works or professional services. These types of goods and services include school supplies, furniture, equipment, software, hardware, legal services and consultants. Charter schools are not required to competitively bid for these services unless it is required by their charter contract. However, it is good practice for the board to have policies and procedures in place for when contracts that exceed a certain dollar amount must be approved by the board.

Procurement Requirements for Purchases Using Federal Funds

When using federal funds, charter schools are subject to procurement standards found in 2 CFR 200 (https://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl). The TEA has additional information on federal procurement compliance on its website at: <https://tea.texas.gov/finance-and-grants/grants/grants-administration/edgar-materials-and-resources>. Charter schools need to adopt written procurement procedures and policies that follow federal guidelines. Key concepts that charter schools must follow when using federal funds include:

- Make sure to avoid conflicts of interest when awarding contracts.
- Only award contracts to responsible contractors possessing the ability to successfully meet the terms of the contract. In selecting contractors, consideration must be given to such matters as the contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- Procurement records must be maintained which provide sufficient detail on the history of procurement. These records should include the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- Make sure to consider the most economical approach for procuring goods and services by avoiding the acquisition of unnecessary or duplicative items.
- Enter into state and local intergovernmental agreements or inter-entity agreements whenever possible for the procurement of use of common goods and services.

Avoiding Conflicts of Interest

When using state and federal funds to secure goods and services, it is critical that charter schools avoid any real or potential conflicts of interest. Texas law requires board members to file a disclosure statement when a board member has a potential financial interest in business the board is conducting. Financial disclosure statements provide the public with information on a board member's income, gifts, real estate holdings, investments, creditors, businesses owned and the major customers of those business. Board members should also abstain from voting on matters in which they may have a vested political or financial interest.