

KERN COUNTY OFFICE OF EDUCATION

Audit Report

MIGRANT EDUCATION PROGRAM

July 1, 2013, through June 30, 2014



BETTY T. YEE
California State Controller

October 2015



BETTY T. YEE
California State Controller

October 28, 2015

Veronica Aguilar, Director
California Department of Education
English Learner Support Division
Migrant Education Program
1430 N Street, Suite 2204
Sacramento, CA 95814-5901

Dear Ms. Aguilar:

The State Controller's Office (SCO), pursuant to an Interagency Agreement with the California Department of Education (CDE), conducted an audit of the Kern County Office of Education's (region) Migrant Education Program (MEP) for the period of July 1, 2013, through June 30, 2014.

The purpose of the audit was to determine whether the region complied with the United States Department of Education Office of Migrant Education's MEP requirements; specifically, that the region maintains proper internal controls to ensure that the program-related costs were incurred for eligible and approved increased costs, and the accounts and records substantiate that the funds were expended for these allowable increased costs.

The audit determined that the region maintains adequate internal controls to ensure MEP compliance and that MEP funds were expended for allowable, approved, and increased costs. However, the region should improve its oversight of sub-recipient districts by ensuring that districts properly maintain personnel activity reports as required by federal regulations. Specifically, for its multi-funded employees, supporting documentation provided by two sub-recipient districts did not demonstrate the actual activity of the employee; rather, it was based on estimated percentages of MEP time and effort, resulting in approximately \$60,668 in unsubstantiated MEP salary charges. Additionally, the region did not comply with state and federal procurement requirements for MEP service contracts; hence, we could not determine if approximately \$116,395 of MEP services were procured properly.

If you have any questions, please contact Andrew Finlayson, Chief, State Agency Audits Bureau, by telephone at (916) 324-6310.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

JVB/as

Attachment

cc: Christine Lizardi Frazier, Superintendent
Kern County Office of Education
Kevin Chan, Director
Audits and Investigations Division
California Department of Education
Celina Torres, Education Administrator I
English Learner Support Division
California Department of Education

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Audit Report

Summary

The State Controller's Office (SCO) conducted an audit of the Kern County Office of Education's (region) Migrant Education Program (MEP) for the period of July 1, 2013, through June 30, 2014.

The purpose of the audit was to determine whether the region complied with the United States Department of Education Office of Migrant Education's (OME) MEP requirements; specifically, that the region maintains proper internal controls to ensure that the program-related costs were incurred for eligible and approved increased costs, and the accounts and records substantiate that the funds were expended for these allowable increased costs.

We determined that the region maintains adequate internal controls to ensure MEP compliance and that MEP funds were expended for allowable, approved, and increased costs. However, the region should improve its oversight of two sub-recipient districts by ensuring that districts properly maintain personnel activity reports as required by federal regulations. Specifically, for its multi-funded employees, supporting documentation provided by sub-recipient districts did not demonstrate the actual activity of the employee; rather, it was based on estimated percentages of MEP time and effort, resulting in approximately \$60,668 in unsubstantiated MEP salary charges. Additionally, the region did not comply with state and federal procurement requirements for MEP service contracts; hence, we could not determine if approximately \$116,395 of MEP services were procured properly.

Background

The MEP is authorized under the No Child Left Behind Act and is funded by Title I, Part C, with the mission of providing supplementary services to ensure that migrant children meet the same academic standards that non-migrant children are expected to meet.

Funds support high quality education programs for migrant children and help ensure that those children who relocate are not penalized in any manner by disparities among states in curriculum, graduation requirements, or state academic content and student academic achievement standards. Funds also ensure that migrant children are provided with appropriate education services (including supportive services) that address their special needs, and receive full and appropriate opportunities to meet the same state academic content and student academic achievement standards that non-migrant children are expected to meet. Federal funds are allocated by formula to state educational agencies, based on each state's per-pupil expenditure for education and counts of eligible migrant children, ages 3 through 21, residing within the state.

The allowable MEP efforts are identified, formulated, and developed in concert with the California Department of Education (CDE) and State's 23 MEP regions/sub-grantees. The regions/sub-grantees include county offices of education and/or school districts. At the state level, the CDE also administers and monitors the federal pass-through MEP funds for the MEP sub-grantees and recipients.

The Kern County Office of Education is a region that provides, administers, and directly oversees MEP services for some districts, while sub-granting MEP funds to other districts through a District Service Agreement. These sub-recipient districts (11) are responsible for directly providing and administering MEP services for its students and are subject to regional oversight. The region may also fund a consortium of school districts, typically with an enrollment of fewer than 200 migrant students, in which MEP services are provided through a Memorandum of Understanding. The region and sub-recipient districts offer migrant instructional services to eligible migrant students through various extended day settings: after school instruction, Saturday schools, home tutorial programs, and summer school. Other migrant services include mobile dental services to migrant students, health advocacy, pre-college outreach programs, and education-based field trips.

The OME conducted a review of the MEP and issued the review in September 2011. The California State Auditor audited the administration of the federally funded migrant education program administered by the CDE and issued its audit report in February 2013. The reviews did not identify any specific administrative oversight concerns of the Kern County Office of Education.

As a result of these reviews, the CDE requested that the SCO assess its administrative oversight efforts¹ and conduct this performance audit of the MEP sub-grantees.

The SCO's authority to conduct this audit is given by:

- Interagency Agreement No. CN 140308 effective February 1, 2015, between the SCO and the CDE, which provides that the SCO will conduct an independent management review of the CDE's administrative oversight efforts, including technical assistance provided to MEP sub-grantees, and an independent management review of MEP sub-grantee fiscal administrative and reporting practices over MEP funding.
- Government Code section 12410, which states, "The Controller shall superintend the fiscal concerns of the state. The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment ..."

Objectives, Scope, and Methodology

The purpose of the audit was to determine whether the region complied with the OME MEP requirements; specifically, that the region maintains proper internal controls to ensure that the region's efforts and program-related costs were incurred for eligible and approved MEP activities, and that accounting records and source documents substantiate that the MEP funds were expended for approved allowable increased costs for the audit period of July 1, 2013, through June 30, 2014.

Audit methodologies included, but were not limited to the following:

¹ This assessment will be covered in a separate management letter to the CDE.

- Reviewed applicable state and federal requirements related to the MEP, including the California Migrant Education Program Fiscal Handbook;
- Reviewed prior audits and single audit reports, and written policies and procedures relating to the region's MEP;
- Reviewed the region's MEP regional application, and budget and quarterly expenditure reports;
- Conducted inquiries with region personnel, and reviewed and assessed related internal controls; and
- Obtained and reviewed supporting documentation to ensure that MEP expenditures for increased costs were necessary, reasonable, and allowable.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Conclusion

The audit determined that the region maintains adequate internal controls to ensure MEP program compliance, and that MEP funds were expended for allowable, approved, and increased costs. However, the region should improve its oversight of sub-recipient districts by ensuring that districts properly maintain personnel activity reports as required by federal regulations. Specifically, for its multi-funded employees, supporting documentation provided by two sub-recipient districts did not demonstrate the actual activity of the employee; rather, it was based on estimated percentages of MEP time and effort, resulting in approximately \$60,668 in unsubstantiated MEP salary charges. Additionally, the region did not comply with state and federal procurement requirements for MEP service contracts; hence, we could not determine if approximately \$116,395 of MEP services were procured properly.

Views of Responsible Officials

We issued a draft report on August 31, 2015. Christine Lizardi Frazier, Ed.D., responded by letter dated September 16, 2015, agreeing with the general findings, and adding clarity to the issue of district oversight.

Restricted Use

This report is solely for the information and use of the Kern County Office of Education, the United States Department of Education, the California Department of Education, and the SCO. It is not intended to be and should not be used by anyone other than these specified parties. The restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD, CPA
Chief, Division of Audits

October 28, 2015

**Schedule 1—
Summary of Reported, Audited, and Questioned MEP Costs
July 1, 2013, through June 30, 2014 (includes 5th Quarter*)**

Object Code	Description	Reported Costs	Audited Costs	Questioned Costs
	Certificated Personnel Salaries			
1100	Teachers	\$ 1,079,481	\$ 1,079,481	—
1200	Pupil support services	87,983	87,983	—
1300	Supervisors/administrators	429,425	429,425	—
1900	Other certificated salaries	375,655	314,987	(60,668) ¹
	Subtotal	1,972,544	1,911,876	(60,668)
	Classified Salaries			
2100	Instructional aides	328,229	328,229	—
2200	Support services salaries	200,093	200,093	—
2400	Clerical, technical, and office staff	182,843	182,843	—
2900	Other classified salaries	1,290,116	1,290,116	—
	Subtotal	2,001,281	2,001,281	—
	Benefits			
3000-3900	Employee benefits	1,216,066	1,216,066	—
	Subtotal	1,216,066	1,216,066	—
	Books and Supplies			
4200	Books and reference materials	12,361	12,361	—
4300	Materials and supplies	494,748	494,748	—
4400	Noncapitalized equipment	25,467	25,467	—
4700	Food	5,956	5,956	—
	Subtotal	538,532	538,532	—
	Services and Other Operating Expenditures			
5100	Sub-agreements for services	33,500	33,500	—
5200	Travel and conferences	105,123	105,123	—
5300	Dues & membership	200	200	—
5500	Operations & housekeeping services	482	482	—
5600	Rentals, leases, repairs and non-capitalized improvement	27,958	27,958	—
5700	Transfer of direct costs	209,877	209,877	—
5800	Professional/consulting services and operating expenses	1,006,872	890,477	(116,395) ²
5900	Communications	8,685	8,685	—
	Subtotal	1,392,697	1,276,302	(116,395)
	Subtotal	7,121,120	6,944,057	(177,063)
	Indirect Cost	382,201	382,201	—
	Total	\$ 7,503,321	\$ 7,326,258	\$ (177,063)

* The 5th Quarter is the first quarter of a subsequent fiscal year, during which the region is allowed to spend the MEP funds that were not spent in the preceding fiscal year.

¹ See Finding 1

² See Finding 2

Findings and Recommendations

**FINDING 1—
Insufficient
regional oversight
results in
unsubstantiated
MEP salary
charges by district**

We reviewed and tested salary expenditures for the Kern County Office of Education’s (region) and its sub-recipients (districts). For two sub-recipients, we noted that supporting documentation was insufficient in order to support salary expenditures reimbursed by the MEP.

We are questioning \$22,204 in salary expenditures for one Director of Special Education at Fairfax School District. The multi-funded position was not supported with sufficient personnel activity reports as required by Title 2, *Code of Federal Regulations*, Part 225 (2 CFR 225). Specifically, documentation provided did not demonstrate the actual activity of the employee, was based on budgeted estimates of percentages of time spent on reimbursable activities, and was prepared only once for the entire fiscal year.

Additionally, we are questioning \$38,464 in salary expenditures for one Migrant Coordinator at Kern High School District. The district was unable to provide sufficient documentation, such as personnel activity reports, for specific months requested for the multi-funded position as required by 2 CFR 225. In particular, documentation provided did not demonstrate the actual activity of the employee and was based on estimated percentages of time spent on reimbursable activities.

According to region staff, documentation substantiating the payroll of district MEP personnel, such as personnel activity reports for multi-funded staff, are not required to be submitted for reimbursement, but instead are to be kept on file at the district. According to the MEP Fiscal Handbook, operating agencies, when reimbursing districts, must either require documentation substantiating district reimbursement requests and/or perform onsite reviews of the documentation at the district. However, our testing revealed that because neither district maintained sufficient personnel activity reports for our sampled employees, the region was not providing the oversight necessary to ensure that these districts were maintaining appropriate documentation.

Section 8.h(4) of 2 CFR Part 225, Appendix B, states, “Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation ...”

Section 8.h(5)(e) of 2 CFR 225, Appendix B, states that “budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards”

Section 8.h(5)(a) of 2 CFR 225, Appendix B, states that personnel activity reports “must reflect an after-the-fact distribution of the actual activity of each employee.”

Section 8.h(5)(c) of 2 CFR 225, Appendix B, states that personnel activity reports “must be prepared at least monthly and must coincide with one or more pay periods.” The documentation provided was completed one time, at the end of the year, for the entire fiscal year.

The 2007 MEP Fiscal Handbook, Section 5.4, Fiscal Expenditure Reports, D. District Expenditure and Financial Reports states, “The OMB Circular A-87 establishes the cost principles and standards for administration of the MEP awards. Each operating agency is required to monitor expenditures made by district contracting for services in their area as all sub awards are subject to federal cost principles. Additionally, operating agencies shall require documentation substantiating district reimbursement requests and/or perform onsite reviews of the documentation at the district.”

The 2007 MEP Fiscal Handbook, Section 3.2, Fiscal Responsibilities states, “It is the responsibility of the operating agency’s fiscal officer to ensure compliance by maintaining fiscal safeguards and meeting the test of generally accepted auditing standards.”

Recommendation

In order to comply with federal and the MEP Fiscal Handbook requirements, we recommend that the region improve its oversight responsibilities by requiring districts to submit sufficient supporting documentation when seeking reimbursement for expenditures claimed, such as personnel activity reports for multi-funded district staff, and/or perform periodic on-site reviews of districts to ensure that sufficient documentation is kept on file.

Furthermore, the region should consult with CDE to make a determination of the \$60,668 in questioned salary costs.

Region’s Response

The region agreed with the finding, but stated that it had provided Kern High School District with sufficient oversight that included multiple on-site visits and technical support sessions. The region would provide “additional attention to proper documentation of personnel activity reports” during its annual fiscal training session on September 17, 2015. The region also intends to increase its monitoring of districts that claim costs of multi-funded personnel in their reimbursement reports.

SCO’s Comment

The region agreed with the finding, and has indicated that it has implemented our recommendation.

FINDING 2— Lack of adherence to procurement requirements

We reviewed the Kern County Office of Education’s (region) Migrant Education Program (MEP) procurement activities for five sampled contracts and determined that it did not follow procurement requirements set forth in the 2007 MEP Fiscal Handbook and the criteria set forth in Title 34, *Code of Federal Regulations*, section 80.36 (34 CFR 80.36). Therefore, we are questioning approximately \$116,395 in MEP contract expenditures.

Our testing revealed the following:

- The region does not appear to obtain price or rate quotations from an adequate number of qualified sources.
- The region lacks written criteria for reviewing proposals and assessing the technical qualifications of contracted personnel.
- The region does not perform a cost or price analysis with every purchase procurement, including making independent estimates before receiving proposals.
- The region does not maintain detailed vendor selection records of the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

2 CFR 200.303, Internal Controls, states, in part:

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award....

34 CFR 80.36(b)(9) states:

Grantees and sub-grantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

34 CFR 80.36(c) states, in part:

Competition (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of section 80.36.... (3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations: (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.... (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

34 CFR 80.36(d)(1) states:

Methods of procurement to be followed- (1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403 (11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

34 CFR 80.36(d)(4) states, in part:

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

- (A) The item is available only from a single source;
- (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (C) The awarding agency authorizes noncompetitive proposals; or
- (D) After solicitation of a number of sources, competition is determined inadequate.

34 CFR 80.36(f)(1) states:

Contract cost and price. (1) Grantees and sub-grantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

Recommendation

We recommend that the region implement policies and procedures to ensure proper and uniform application and assessment of vendor selections. Implementing policies and segregating responsibilities for identifying qualified vendors will strengthen the region's compliance with applicable federal and state regulations. To ensure proper vendor qualification and rating, we recommend that the region:

- Obtain price or rate quotations from an adequate number of qualified sources.
- Establish written criteria for reviewing proposals and assessing the technical qualifications of contracted personnel.
- Maintain records sufficient to detail the history of procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, a cost or price analysis, and the basis for the contract price.
- Adhere to applicable federal criteria regarding a noncompetitive procurement.

Furthermore, the region should consult with CDE to make a determination of the \$116,395 in questioned MEP costs.

Region's Response

The region agreed that it lacked "a level of documentation required by the Code of Federal Regulations as interpreted by your office." The region believed that it had a level of documentation required by the 2007 Fiscal Handbook and based on its understanding. It included an updated Kern County Superintendent of Schools' Purchasing Policy.

SCO's Comment

The region agreed with the finding, and attached a copy of its updated Purchasing Policy which adopts a more stringent documentation procedure to substantiate procedural work. The 2007 Fiscal Handbook guides the regions in the use of MEP funds. The regions must use procurement procedures that reflect applicable federal and state statutes and standards.

**Attachment—
Region's Response to
Draft Audit Report**

September 16, 2015

Mr. Andrew Finlayson, Chief
State Agency Audits Bureau
State Controller's Office
Division of Audits
Post Office Box 942850
Sacramento, CA 94250-5874

Dear Mr. Finlayson:

In response to the draft of *Kern County Office of Education Audit Report Migrant Education Program: July 1, 2013, through June 30, 2014*, dated August 2015, I want to express my appreciation to your office and highly professional audit team for both their courteous interactions and the support the process offers in our continuous efforts to improve the fiscal work of our region.

Thank you also for the outside perspective regarding the maintenance of adequate internal controls. While we agree with the general findings, we hope to add clarity to the issue of district oversight and appreciate the opportunity to provide additional information. There has been ongoing, regular oversight to districts at a level greater than our understanding of the minimum. Because of recent requirements to reduce the rate of administration, there has been a substantial increase of staff that is multi-funded in the Migrant Education Program.

Documentation of activity for multi-funded employees has necessarily increased and become more complex. For example, our comprehensive oversight of Kern High for 2013-14 included on-site visits: 7/1/13, 7/11/13, 8/20/13, 10/10/13, 10/23/13, 11/6/13, 2/12/14, 5/1/14, 5/20/14, 5/22/14, 8/26/14 with additional technical support sessions: 8/28/13, 9/12/13, 9/18/13, 10/16/13, 11/20/13, 12/17/13, 1/15/14, 2/13/14, 3/19/14, 4/9/14, 4/19/14, and 5/8/14 in addition to many undocumented interactions providing practical, ongoing evidence of work being accomplished for the migrant program. In response to your observations, additional attention to proper documentation of personnel activity reports will be included in the annual fiscal training session was held September 17, 2015. Additional monitoring of personnel activity reports (activity logs) in conjunction with monthly district reimbursement claims will be required of those districts with multi-funded personnel as well as individual follow-up activities as needed to obtain full compliance of this requirement.

In order to clarify our agreement regarding the findings with respect to procurement activities, we agree with the findings that we did not have the level of documentation required by the Code of Federal Regulations as interpreted by your office. The level of documentation was completed based on our understanding at the time of the amount of necessary documentation. The 2007 Fiscal Handbook refers to the authority of OMB-A87 and outlines the keeping of records such as "purchase orders, invoices, payrolls, contracts and subcontract documents."

Practices set forth in the Handbook and in your letter regarding price quotations, reviewing proposals, cost analysis and careful, prudent selection for quality and value have consistently and continuously been an integral part of our day to day practice. Nevertheless, we understand that the formal documentation of our efforts was less than exemplary. We have also provided ample technical assistance and individual support to districts within the region regarding careful and prudent purchasing practices. We have acted in good faith with the support of our office's guiding practices, such as their pre-contract worksheet, to follow the spirit and content of the law as we understood it. Enclosed you will find the Kern County Superintendent of Schools updated Purchasing Policy, which we are beginning to incorporate into our procurement process. We are also adopting more stringent documentation procedures to substantiate procedural work.

We wish to assure your office that we have and will continue to act in the best interest of the public we serve, abiding by the principles and guidelines the various federal and state authorities set forth to the best of our knowledge. Thank you for assisting our continuing efforts to improve all forms of practice.

Sincerely,



Christine Lizardi Frazier, Ed.D.
Kern County Superintendent of Schools

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Purchasing Policy

The Kern County Superintendent of Schools (KCSOS) recognizes its fiduciary responsibility to oversee the prudent expenditure of funds. In order to best serve KCSOS's interests, the County Superintendent or designee shall develop and maintain effective purchasing procedures that are consistent with sound financial controls and that ensure maximum value is received for goods and services purchased. The Superintendent shall ensure that records of expenditures and purchases are maintained in accordance with law. This policy shall apply to all procurement practices except construction services, unless the funding source or program requires more restrictive practices in which case(s) the more restrictive practice will be followed.

Expending Authority

The intent of this policy is for the Superintendent or designee to generally follow rules similar to those applicable to school districts. The Superintendent or designee may purchase supplies, materials, apparatus, equipment, and services, other than construction services, up to the amounts specified in Public Contract Code 20111, beyond which a competitive bidding process is required or a recognized bidding exception or exemption applies. The Superintendent or designee may, in appropriate circumstances that are adequately documented, waive the bidding requirement, unless required by law or a funding source or program.

KCSOS shall not recognize obligations incurred contrary to administrative policy and regulations. Individuals that make purchases with the expectation of being reimbursed may be personally liable.

The Superintendent or designee may only authorize expenditure when the budget classification contains an amount sufficient to cover the purchase.

KCSOS funds shall not be expended for the purchase of alcoholic beverages.

Purchasing Procedures

Except as provided in this policy, all purchases must be made in accordance with the California Education Code and the Public Contract Code. Unless waived in advance by the Superintendent or designee, requisitions submitted for equipment, services and/or supplies in excess of the limits established by Public Contract Code Section 20111 require that a formal bid process be followed.

Purchases must be made using the purchase order process unless otherwise authorized through alternative methods such as purchasing card or employee reimbursement.

Insofar as possible, goods and services purchased shall meet the needs of the person or department ordering them at the lowest price consistent with standard purchasing practices. In order to ensure the prudent expenditure of funds and that maximization of value is achieved, an evaluation should occur for each purchase. Maintenance costs, replacement costs, and trade-in values shall be considered when determining the most economical purchase price. In addition, when price, fitness, and quality are equal, use of local vendors and recycled products is encouraged.

The Superintendent or designee is authorized to issue and sign purchase orders on a continuing basis throughout the year and shall be responsible for all purchasing activities, requisitioning, setting specifications, bidding, ordering, receiving, and maintaining inventory control.

Purchasing Policy

All purchases shall be made by formal contract or purchase order or shall be accompanied by a receipt. In order to eliminate the processing of numerous small purchase orders, the Superintendent or designee may create an "open" purchase order system for the purchase of minor items as needed from a vendor, and shall ensure that the "open" purchase order system details a maximum purchase amount, the types of items that can be purchased under this order, and the names of authorized purchasers.

Purchase evaluation should be provided as record for purchases over \$2,500 and should include rationale for selection along with other options considered. Purchases \$5,000 and greater that are not subject to formal competitive bidding must include documentation that a competitive quote process was used, including responses from qualified vendors and the rationale for the selection. A clear process or written criteria for reviewing proposals, assessing technical qualifications of contracted personnel, and for assessing the quality of a technical approach will be used.

The Superintendent or designee shall not enter into any contract with a person, agency, organization if he/she has knowledge that such person, agency, or organization discriminates on the basis of race, religion, color, national origin, ancestry, physical disability, mental condition, age (over 40), or sex, either in employment practices or in the provision of benefits or services to students or employees.

Professional Services

Determination of the nature of the professional relationship shall be made in accordance with IRS guidelines and the Education Code. A Professional Services Agreement is used to contract for the services of an individual who is determined to be an independent contractor. If the individual contractor is involved with a partnership, company, or corporation that will receive payment(s), a written and authorized contract is required for services in excess of five thousand dollars (\$5,000). If a legal employment relationship exists, the individual must be paid through payroll. In such cases, Human Resources should be contacted for initiation of the hiring process.

Contracts

Contracts are used to request supplies, equipment, or services provided by a business entity (partnership, company, or corporation), contractor, school district, or other governmental organization. A contract should be in writing when warranted by the cost, task, or potential risk and for all relationships in excess of five thousand dollars (\$5,000). All contracts shall conform to the standards required by law. Contracts may be entered into as follows:

- For work or services not to exceed five (5) years.
- For materials or supplies not to exceed three (3) years.

Quotes and Formal Competitive Bidding

Three written quotes or sole-source justification are required for the purchase of capital outlay items, including equipment, costing \$2,500 or more but less than the threshold requiring formal competitive bidding.

Purchasing Policy

Public Contract Code (PCC) Section 20111(a) requires formal bidding for the lease or purchase of equipment, materials, supplies, services (except "construction services"), and certain repairs and maintenance which are not a "public project," if the acquisition exceeds a stated threshold cost, currently set at \$86,000 or more. This figure is adjusted by the State on an annual basis. The Superintendent or designee shall use a formal bidding process for acquisitions over the threshold limit unless a bidding exemption or exception applies. In special circumstances, which shall be documented, the Superintendent or designee may waive application of this rule, which waiver should be sought, granted and documented prior to the acquisition being made.

No project shall be split, or separated into smaller work orders, or projects for the purpose of evading competitive bidding.

When letting a contract for the lease, purchase, or maintenance of electronic data-processing systems or supporting software the successful bidder may be chosen from one of the three (3) lowest responsive bidders.

Exceptions to Bids and Formal Competitive Bidding

Purchases excluded from the requirement for quotes and formal competitive bidding include equipment purchases that do not exceed \$2,500, and supplies & service purchases that do not exceed \$10,000, textbooks, library books, films, audiovisual materials, test materials, workbooks, instructional computer software, periodicals, rental and lease of office space, television program rights, newspaper advertising, cost of training classes and workshops, postage and postage metering costs, utilities, travel services, perishable food and seasonal commodities, services from other governmental agencies, and consultant services for financial, economic, accounting, engineering, legal, and administrative matters, and equipment, materials or supplies that are acquired through use of a "piggyback" process under Public Contract Code Section 20118, or through a Joint Powers Authority, or through use of the Department of General Service contracts under the California Multiple Award Schedule (CMAS) program.

Sole Source Purchases

Purchasing from sole source vendors precluding bids or formal competitive bidding will be allowed only if it can be fully justified. Justification would include, but is not limited to, a market search by the requester to determine that there are no other vendors available to provide the required supplies, equipment or service.

Emergency Repairs

In an emergency when any repairs, alterations, work or improvement is necessary to permit the continuance of KCSOS functions, existing school classes, or to avoid danger to life or property, the Superintendent or designee may enter into a contract for the performance of labor and furnishing of supplies, equipment, or services for this purpose without advertising or inviting bids.

Request for Proposal (RFP)

A request for proposal may be used in those situations where it has been authorized by law or when formal competitive bidding is not required by statute. Except for acquisition of capital outlay items, KCSOS need not choose the low monetary bidder, but may evaluate proposals

Purchasing Policy

based upon its needs and its determination of the best quality services, functions, suitability, etc., for the price.

Cut off dates

Timelines and cut-off dates are established for purchases each fiscal year. Purchase requisitions received after the cut-off dates will be returned to the site/department unprocessed to be re-submitted in the next school year. In the event of an emergency or unplanned essential need, an emergency purchase requisition may be submitted. The emergency purchase requisition must provide justification as to the need, explain why the need was not anticipated prior to the cut-off date, and be approved by the division chief or assistant/deputy/associate superintendent.

Legal Reference:

EDUCATION CODE

17596

17604 Delegation of powers to agents; approval or ratification of contracts by governing board

17605 Delegation of authority to purchase supplies and equipment

32370-32376 Recycling paper

32435 Prohibited use of public funds, alcoholic beverages

GOVERNMENT CODE

4330-4334 California made materials

PUBLIC CONTRACT CODE

3410 U.S. produce and processed foods

20111 Contracts over \$50,000; contracts for construction; award to lowest responsible bidder

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