

124E.26 USE OF STATE MONEY.

Subdivision 1. **Purchasing buildings.** A charter school may not use state money to purchase land or buildings. The charter school may own land and buildings if obtained through nonstate sources.

Subd. 2. **Procurement policy required.** Prior to the expenditure of any state funds, a charter school must adopt a procurement policy consistent with subdivision 4.

Subd. 3. **All purchases.** All purchases using state funds must be made consistent with the procurement policy adopted under subdivision 2.

Subd. 4. **Required policy components.** A charter school procurement policy must at a minimum include:

- (1) conflict of interest provisions consistent with section 124E.14;
- (2) thresholds for purchases by employees without board approval;
- (3) thresholds for purchases that require competitive procurement processes as defined in section 124E.02, paragraph (e), except that a competitive procurement process must occur for any procurement estimated to exceed \$25,000; and
- (4) a prohibition on breaking up a procurement into smaller components to avoid the thresholds established in clauses (2) and (3).

Notwithstanding clause (3), for a procurement estimated to exceed \$25,000 but not \$175,000, the purchase may be made either by a competitive procurement process, or by direct negotiation, by obtaining two or more bids or proposals for the purchase or sale when possible and without advertising for bids or proposals or otherwise complying with the requirements of a competitive procurement process. If a procurement is estimated to exceed \$175,000, a competitive procurement process must occur.

Subd. 4a. **Competitive procurement.** (a) "Procurement by sealed bids" means a process in which bids are publicly solicited and a firm fixed price contract by lump sum or unit price is awarded to the responsible bidder whose bid, conforming with all material terms and conditions of the invitation for bids, is the lowest in price. If sealed bids are used, the following requirements apply:

- (1) bids must be solicited from an adequate number of qualified sources, providing bidders sufficient response time prior to the date set for opening bids;
- (2) the invitation for bids, which includes any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (3) all bids will be opened at the time and place prescribed in the invitation for bids, and the bids must be opened publicly;
- (4) a firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that the discounts are usually taken advantage of;
- (5) any or all bids may be rejected if there is a sound documented reason; and
- (6) in order for a sealed bid to be feasible, the following conditions must be present:
 - (i) a complete, adequate, and realistic specification or purchase description is available;

(ii) two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the price.

(b) "Procurement by proposals" means a process in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(1) requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) the charter school must have a written method for conducting technical evaluations of the proposals received and for making selections; and

(3) contracts must be awarded to the responsible offeror whose proposal is most advantageous to the charter school, with price and other factors considered.

Subd. 5. Reduction in aid. If a charter school makes a purchase without a procurement policy adopted by the school's board or makes a purchase not in conformity with the school's procurement policy, the commissioner may reduce that charter school's state aid in an amount equal to the purchase.

Subd. 6. Property, financial investments, and contracting. A charter school is subject to and must comply with sections 15.054 and 118A.01 to 118A.06 governing government property and financial investments and sections 471.38, 471.391, 471.392, and 471.425 governing municipal contracting.

History: 1991 c 265 art 9 s 43; 1998 c 397 art 2 s 164; 1Sp2015 c 3 art 4 s 10; 2016 c 189 art 26 s 17; 2024 c 109 art 6 s 21; 1Sp2025 c 10 art 5 s 17,18