

HAWTHORN ACADEMY

PROCUREMENT PROCEDURES
CHILD NUTRITION PROGRAM

These procedures establish Hawthorn Academy's plan for procuring items used in the school's Child Nutrition Program. These procurement procedures are intended to maximize full and open competition, transparency in transactions, comparability, and documentation of all procurement activities.

A. Small Purchase Process

The school will make small purchases in accordance with the most restrictive small purchase threshold, as between the federal requirements of 2 CFR 200.318-.326 and the Utah Procurement Code. The school has determined that the small purchase threshold established under the Utah Procurement Code is this most restrictive, and the school will make small purchases in accordance with those requirements.

The school will employ the following process in connection with small purchases (See Utah Administrative Code R33-5-104; and R33-5-107):

- Purchases of \$1,000 or less – Select best source without seeking competitive bids or quotes.
- Purchases of \$1,000.01 to \$5,000 – Obtain at least two competitive quotes that include minimum specifications and purchase the item from the responsible vendor offering the lowest quote that meets the specifications.
 - The following information must be recorded and maintained as a governmental record:
 - Names of vendors offering quotes or bids;
 - Amount of each quote or bid; and
 - Date of each quote or bid.
- Purchases of \$5,000.01 to \$50,000 – Obtain at least two competitive quotes that include minimum specifications and purchase the item from the responsible vendor offering the lowest quote that meets the specifications.
 - The following information must be recorded and maintained as a governmental record:
 - Names of vendors offering quotes or bids;
 - Amount of each quote or bid; and
 - Date of each quote or bid.
- Purchases of greater than \$50,000 – standard procurement process (such as RFP or IFB).

The school will not use small purchase processes for ongoing, continuous, and regularly scheduled procurements unless the total annual expenditures are less than the applicable limit for small purchases. Whenever practicable, the school will use a rotation system or other system designed to allow for competition when using the small purchase process. The school will not purchase more than \$50,000 worth of items per year from one source using the small purchase process.

Because of the potential for purchases to exceed the applicable small purchase threshold, it will be the responsibility of the school's Lunch Program Director to maintain and review documentation of small purchases in order to ensure that the school employs the proper procurement procedures.

If the amount of purchases for items is less than the applicable small purchase threshold, the following **SMALL PURCHASE PROCEDURES** will be used. Quotes from an adequate number of qualified sources will be

required for all small purchases unless an exception to this requirement applies, in which case the relevant facts regarding the justification for the exception will be documented.

1. Written Specifications will be prepared and provided to the vendor.
2. Each vendor will be contacted and given an opportunity to provide a price quote on the same specifications. A minimum of two vendors shall be contacted.
3. The Lunch Program Director will be responsible for contacting potential vendors when price quotes are needed.
4. The price quotes will receive appropriate confidentiality before award.
5. Quotes will be awarded by Lunch Program Director. Quotes awarded will be to the lowest and best quote based upon the following criteria: price, quality, service, and availability.
6. The Lunch Program Director will be responsible for documentation of records to show selection of vendor, reasons for selection, names of all vendors contacted, price quotes from each vendor, and *written specifications*.
7. The Lunch Program Director will be responsible for documentation that the actual product specified is received.
8. Any time an accepted item is not available, the Lunch Program Director will select the acceptable alternate. Full documentation will be made available as to the selection of the acceptable item.
9. The Lunch Program Director is required to sign all quote tabulations, signifying a review and approval of the selections.

B. Formal Procurement Processes

A formal procurement process is required for purchases that exceed the \$50,000 annual cumulative threshold for purchases from the same source.

Formal procurement procedures will be applied on the basis of:

Category	Procurement Method	Evaluation Used	Contract Award Type	Contract Duration/ Frequency
All perishable and non-perishable foods and Manual-All Purpose Cleaning Supplies, Paper and Plastic Supplies	Formal	Bottom line	Cost-reimbursable plus fixed fee	Five years
Dish machine Chemicals	Formal	Bottom line	Fixed price with price adjustment	Five years
Small wares	Formal	Bottom line	Fixed price	Five years
Capital Equipment	Formal	Bottom line	Fixed price	Five years
Fresh Bread	Formal	Bottom line	Fixed price with price adjustment	Five years

Milk and Dairy Products	Formal	Bottom line	Fixed price with price adjustment	Five years
Office Supplies	District contract	Bottom line	Cost reimbursable plus fixed-fee	Five years
Processing USDA Foods	Formal	Bottom line	Fixed price	1 year (must terminate on June 30 each year), plus 2 1 year renewals
Emergency	Micro-purchase/small purchase procedures (requires authorized PO)	Price reasonable	No contract, equitable distribution, transactions limited to \$3,500 each	As needed: <u>Approved locations:</u> Harris Teeter, Fry's, Walmart, Safeway, Sam's Club, Costco, BJ's Warehouse

When a formal procurement method is required, the school will use either ***COMPETITIVE SEALED BIDS*** in the form of an Invitation for Bid (IFB) or ***COMPETITIVE PROPOSALS*** in the form of a Request for Proposal (RFP).

The school will publish notice of an IFB or RFP in accordance with the notice requirements contained in the Request for Proposal Checklist attached as **Exhibit A**. The notice of the procurement will contain the following:

- general description of items to be purchased
- deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms and conditions as needed
- date of pre-bid meeting, if provided, and if attendance is a requirement for bid award
- deadline for submission of sealed bids or proposals, and
- address of location where complete specifications and bid forms may be obtained.

Each vendor will be given an opportunity to bid on the same specifications.

Any vendor that assisted in the development of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.

The IFB or RFP will clearly define the purchase conditions. Requirements to be addressed in the procurement document may include, but are not limited to the following:

- Contract period
- SFA is responsible for all contracts awarded (statement)
- Date, time, and location of IFB/RFP opening
- How vendor is to be informed of bid acceptance or rejection
- Delivery schedule
- Set forth requirements (terms and conditions) which bidder must fulfill in order for bid to be evaluated
- Benefits to which the School Food Authority will be entitled if the contractor cannot or will not perform as required

- Statement assuring positive efforts will be made to involve minority and small business
- Statement regarding the return of purchase incentives, discounts, rebates, and credits to the School Food Authority's non-profit Child Nutrition account
- Contract provisions as required in Appendix II to 2 CFR 200
- Contract provisions as required in 7 CFR 210.21(f) for all cost reimbursable contracts
- Contract provisions as required in 7 CFR 210.16(a)(1-10) and 7 CFR 250.53 for Food Service Management Company contracts
- Procuring instrument to be used are purchase orders from firm fixed prices after formal bidding
- Price adjustment clause (tied to a standard index) (Consumer price index, or other as stated in terms and conditions for pricing and price adjustments)
- Method of evaluation and type of contract to be awarded – solicitations using an invitation for bid are awarded to the lowest responsive and responsible bidder; requests for proposal are awarded to the most advantageous bidder/offeror with price as the primary factor among factors considered
- Method of award announcement and effective date (if intent to award is required by State or local procurement requirements)
- Specific bid protest procedures including contact information of person and address and the date by which a written protest must be received
- Provision requiring access by duly authorized representatives of the School Food Authority, State Agency, United State Department of Agriculture, or Comptroller General to any books, documents, papers and records of the contractor which are directly pertinent to all negotiated contracts
- Method of shipment or delivery upon contract award
- Provision requiring contractor to maintain all required records for *three* years after final payment and all other pending matters (audits) are closed for all negotiated contracts
- Description of process for enabling vendors to receive or pick up orders upon contract award
- Provision requiring the contractor to recognize mandatory standards/policies related to energy efficiency contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165)
- Signed statement of non-collusion
- Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).
- Provision requiring "Buy American" as outlined in 7 CFR Part 210.21(d); specific instructions for prior approval of all of non-domestic product (s).
- Specifications and estimated quantities of products and services prepared by SFA and provided to potential contractors desiring to submit bids/proposals for the products or services requested.
- If any potential vendor is in doubt as to the true meaning of specifications or purchase conditions, interpretation will be provided in writing to all potential bidders by the School's [[Food Service Manager]] and date specified.
- The [[Food Service Manager]] will be responsible for securing all bids or proposals.
- The [[Food Service Manager]] will be responsible to ensure all SFA procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.
- The following criteria will be used in awarding contracts as a result of bids/proposals.
 - i. Price

- ii. Quality
- iii. Service

In awarding an RFP, a set of award criterion in the form of a weighted evaluation sheet will be provided to each bidder in the initial bid document materials. Price alone is not the sole basis for award, but remains the primary consideration among all factors when awarding a contract. Following evaluation and negotiations a firm fixed price or cost reimbursable contract is awarded. In addition to following the processes set forth in the Request for Proposal Process Checklist, which ensure that state procurement law is followed, the following procedures will be followed in connection with an RFP:

- The contracts will be awarded to the responsible bidder/proposer whose bid or proposal is responsive to the invitation and is most advantageous to the SFA, price as the primary and other factors considered. Any and all bids or proposals may be rejected in accordance with law.
- Lunch Program Director is required to sign on the bid tabulation of competitive sealed bids or the evaluation criterion score sheet of competitive proposals signifying a review and approval of the selections.
- Lunch Program Director reviewing the procurement system to ensure compliance with applicable laws.
- Lunch Program Director is responsible for documentation the actual product specified is received.
- Any time an accepted item is not available, the Lunch Program Director will select the acceptable alternate. The contractor must inform Lunch Program Director as soon reasonably possible if a product is not available. In the event a non-domestic agricultural product is to be provided to the SFA, the contractor must obtain, in advance, the written approval of the product. The Lunch Program Director must comply with the Buy American Provision.
- Full documentation as to the reason an accepted item was unavailable, and to the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for this documentation is Lunch Program Director.
- The Lunch Program Director responsible for maintaining all procurement documentation.

C. Non-Competitive Procurements

If items are available only from a single source *when the award of a contract is not feasible under small purchase, sealed bid or competitive negotiation*, **NON-COMPETITIVE PROPOSAL** procedures may be used as described herein.

The underlying purposes and policies of the Utah Procurement Code are to ensure the fair and equitable treatment of all persons who deal with the procurement system and to foster effective broad-based competition within the free enterprise system. The most effective way to achieve this is by conducting a standard procurement process whenever public funds are expended for a procurement item. Sole source contract awards (R33-8-101a) do not involve a standard procurement process and should only be used when justified after reasonable research has been conducted to determine if there are other available sources and an analysis has been conducted to determine if a sole source award is cost justified.

Under the Utah Procurement Code, circumstances for which a sole source contract award may be justified include procurements for:

- (a) A procurement item for which there is no comparable product or service, such as a one-of-a-kind item available from only one vendor;

- (b) A component or replacement part for which there is no commercially available substitute, and which can be obtained only directly from the manufacturer; or
- (c) An exclusive maintenance, service, or warranty agreement.

Prior to awarding a sole source contract, the Director shall, whenever practicable, ensure that a price analysis is conducted accordance with Utah Administrative Code R33-12-603.

An urgent or unexpected circumstance or requirement for a procurement item does not justify the award of a contract without engaging in a standard procurement process.

Additionally, the following procedures will be followed in connection with such procurements:

1. Written Specifications will be prepared and provided to the vendor.
2. Equitable rotation, or “spreading the wealth” will be used to the extent possible with any non-competitive procurement, including emergency procurements.
3. The Lunch Program Director will be responsible for the documentation of records to fully explain the decision to use the non-competitive proposal. The records will be available for audit and review.
4. The Lunch Program Director will be responsible for documentation that the actual product or service specified was received.
5. The Lunch Program Director will be responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive proposals are met.

Non-competitive proposals may be used for one-time purchases of a new food item in order to determine food acceptance by students and for samples for testing purposes. A record of non-competitive negotiation purchase shall be maintained by the Lunch Program Director. The record of non-competitive purchases shall include, at a minimum, the following:

- item name
- dollar amount
- vendor, and
- reason for non-competitive procurement

A member or representative of the Board of Directors will approve, in advance, all procurements that result from non-competitive negotiations.

D. Miscellaneous Provisions

1. New product evaluation procedures will include:
 - _____
 - _____
 - _____
2. The School Food Authority agrees that the reviewing official of each transaction will be the Lunch Program Director.

3. Payment will be made to the vendor when the contract has been met and verified and has met the SFA's procedures for payment. (If prompt payment is made, discounts, etc. are accepted.)
4. When purchasing items under contracts procured by other entities, the school will attempt to ensure that such procurement was conducted properly.
5. Specifications will be updated as need.
6. If product is not as specified, the following procedure will take place:
 - _____
 - _____
 - _____

E. Emergency or "Pressing Need" Purchases

If it is necessary to make a one-time emergency procurement to continue service or obtain goods, the purchase must be authorized by the school's Director and made using a purchase order signed by the school's Director. The procedures described below shall be followed for such purchases, and the following documentation for such purchases will be maintained:

- item name
- dollar amount
- vendor, and
- reason for emergency

If it is necessary, in the course of a pressing need, to make an emergency purchase by means of "piggybacking" on the bid of another LEA, the following conditions must exist, and the following procedures must be followed and appropriately documented:

- The SFA originating the competitive procurement must have a "piggyback provision" in the original solicitation;
- Documentation of the emergency requiring the piggybacking must be maintained;
- Approval from the purchasing SFA's governing board will be obtained and documented;
- Approval from the SFA that originated the competitive procurement will be obtained and documented;
- Approval from the Vendor that was awarded the Contract (original solicitation) will be obtained and documented;
- Approval to piggyback will be obtained and documented from the governing board during a regularly scheduled meeting following the public notice;
- Notification to the Vendor of final approval will be documented and issued;
- A contract with the Vendor will be developed including:
 - i. The contractor shall agree to retain all books, records and other documents relative to the contract agreement for three (3) years after final payment, or until audited by SFA, whichever is sooner. The SFA, its authorized agents, and/or State and/or USDA auditors shall have full access to and the right to examine any of said materials during said period.

F. Documentation

The SFA shall retain all books, records and other documents relative to any procurement, regardless of the type of process used, for three (3) years after final payment. Specifically, the SFA shall maintain, at a minimum, the following documents:

- Written rationale for the method of procurement;
- A copy of the original solicitation;
- The selection of contract type;
- The bidding and negotiation history and working papers;
- The basis for contractor selection;
- Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;
- The basis for award cost or price;
- The terms and conditions of the contract;
- Any changes to the contract and negotiation history;
- Billing and payment records;
- A history of any contractor claims; and
- A history of any contractor breaches.

G. Ethics/Conflicts of Interest

In addition to compliance with the school's Conflict of Interest Policy and Ethics Policy, the following conduct will be expected of all persons who are engaged in the awarding and administration of contracts supported by School Food and Nutrition Program Funds:

1. No employee, officer or agent of the school shall participate in the selection or in the award or administration of a contract supported by program funds if a conflict of interest, real or apparent, would be involved.

Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:

- a. The employee, officer or agent;
 - b. Any member of the immediate family;
 - c. His or her partner;
 - d. An organization which employs or is about to employ one of the above.
2. School employees, officers or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
 3. Penalties for violation of these standards may include any or all of the following, depending on the facts and circumstances:
 - a. Reprimand
 - b. Corrective action
 - c. Dismissal

d. Legal action.

EXHIBIT A
Requests for Proposal (RFP) Process Checklist

1. **Appoint an Evaluation Committee.** The School’s Board of Directors (“Board”) must appoint an Evaluation Committee to evaluate and score all non-cost evaluation criteria for each acceptable proposal that will be submitted in response to the RFP. The Evaluation Committee must consist of at least three people who have a general familiarity with or basic understanding of (1) the technical requirements relating to goods or services or (2) the School’s need for the goods or services. As an example, an Evaluation Committee could be made up of two appropriate school personnel and/or Board members and the School’s Director. At each stage of the procurement process it is essential that each member of the Evaluation Committee and each individual participating in the evaluation committee process (1) does not have a conflict of interest with any offeror; (2) can fairly evaluate each proposal; (3) does not contact or communicate with an offeror concerning the procurement outside the official evaluation committee process; and (4) conducts or participates in the evaluation in a manner that ensures a fair and competitive process and avoids the appearance of impropriety. *Utah Code § 63G-6a-707 outlines the general duties of and requirements for an evaluation committee. Utah Code § 63G-6a-707(6)(a) prohibits an evaluation committee from knowing, or having access to, any information related to the cost of a proposal, or the scoring of the cost evaluation criteria, until after the evaluation committee has submitted its scores on the non-cost evaluation criteria. (See #9 below).*
 - A. Evaluation Committee appointed.

2. **Appoint a separate individual to evaluate cost criteria in each proposal and to review and complete score sheets.** At the same time the Evaluation Committee is appointed, the Board must also appoint a person who is not a member of the Evaluation Committee to calculate scores for cost evaluation criteria for each acceptable proposal that will be submitted in response to the RFP. This person could be a member of the Board or employee of the School. This person should also be appointed to do the following: (1) review the Evaluation Committee’s score sheets and correct any errors, scoring inconsistencies, and reported noncompliance with the Utah Procurement Code; (2) add the scores from the cost score sheet to the Evaluation Committee’s score sheets to derive the total combined score for each acceptable proposal; and (3) provide the Evaluation Committee the total combined score (the score for all cost and non-cost evaluation criteria) calculated for each acceptable proposal. The individual appointed to evaluate cost criteria and to review and complete score sheets is hereinafter referred to as the “individual appointed to evaluate cost”. *Utah Code § 63G-6a-707(6)(b)(i)-(iv) outlines the general duties of the individual appointed to evaluate cost.*
 - A. Individual appointed to evaluate cost criteria and review and complete score sheets.

3. **(Optional) Review of law pertaining to RFP process.** Prior to participating in the RFP evaluation process, it is encouraged that the Evaluation Committee, the individual appointed to evaluate cost, and any other persons involved in the RFP process (including Board members and applicable employees of the School) review Utah Code § 63G-6a-701 through § 63G-6a-711, Utah Code § 63G-6a-2401 through § 63G-6a-2407, and Utah Code § 63G-6a-112 . This will help ensure that the RFP process is done correctly, fairly, and in compliance with applicable law.

(Optional)

- A.** Copies of Utah Code § 63G-6a-701 through § 63G-6a-711, Utah Code § 63G-6a-2401 through § 63G-6a-2407, and Utah Code § 63G-6a-112 have been provided to the Evaluation Committee, the individual appointed to evaluate cost, and any other persons involved in the RFP process; and
 - B.** Each of the above-described individuals have reviewed the above code sections.
- 4. Prepare RFP.** An RFP soliciting the services must be prepared. The Evaluation Committee should be involved in preparing/reviewing the RFP. Members of the Board and the School who are not on the Evaluation Committee may also participate in preparing/reviewing the RFP. An RFP is required to contain all of the items of information set forth in Utah Code §63G-6a-703(2). The RFP should specify that proposals be submitted in two parts – one part addressing all non-cost information and the other part addressing all cost information. This will be helpful in facilitating the evaluation process, as the non-cost information portion of the proposals can be easily delivered to the Evaluation Committee for evaluation and scoring. *Utah Code § 63G-6a-703 sets forth the information required to be in an RFP. Utah Code § 63G-6a-707(1) contains a list of evaluation criteria that may be included in an RFP.*
- A.** RFP completed; and
 - B.** RFP and contains each of the following items of information required in Utah Code §63G-6a-703(2):
 - The period of time during which a proposal will be accepted;
 - The manner in which a proposal shall be submitted;
 - The place where a proposal shall be submitted;
 - A full (if practicable) description of the items/services sought and the full (if practicable) scope of work, the subjective and objective criteria that will be used to evaluate a proposal, and the standard contractual terms and conditions required by the School;
 - The relative weight that will be given to each score for the evaluation criteria; and
 - The formula that will be used to determine the score awarded for the cost of each proposal.
- 5. Publish notice of RFP.** A public notice of the RFP must be published (1) in an appropriate newspaper (a newspaper of general circulation in Utah or a newspaper of local circulation in the area directly impacted by the procurement); (2) on the School’s main website; or (3) on a state website that is owned by, managed by, or provided under contract with, the Division of Purchasing and General Services for posting a procurement notice (Division of Purchasing and General Services will post notice of the RFP for free on its website or on SciQuest). The public notice must be published for at least seven days before the deadline for submission of a proposal in response to the RFP. *Utah Code § 63G-6a-112 contains the publication requirements for an RFP. Among other requirements, the public notice must inform offerors how to get a copy of the RFP.*
- A.** Public notice of the RFP published in newspaper, on the School’s website, or on other state website as described above; and
 - B.** Public notice published for at least seven days.
- 6. Open proposals.** Each proposal submitted in response to the RFP must be opened in public at the date, time, and location specified in the RFP. The Board or any person(s) designated by the Board may open each proposal. It is important to emphasize that if the Evaluation Committee or member of the Evaluation Committee opens the proposal that no cost information be included in the proposals to be opened, as they are not supposed to have access to cost information at this point in the RFP process. The opening must occur after the deadline for offerors to submit proposals, which deadline is specified

in RFP. The proposals must be opened in a manner that avoids disclosing the contents to competing offerors during the evaluation process (for example, just announcing the name of the offeror of each proposal is appropriate). Proposals submitted after expiration of the deadline for submitting proposals must not be accepted unless the late submission is due to an error on the part of the Board, Evaluation Committee, or School. The Board may, at any time during the procurement process (even before evaluation of proposals by the Evaluation Committee), reject a proposal if the Board determines that the person submitting the proposal is not responsible or if the proposal itself is not responsive or does not meet any mandatory minimum requirements stated in the RFP. *Utah Code § 63G-6a-704 sets forth requirements for opening, accepting, and rejecting proposals to an RFP.*

A. Each proposal opened in public at designated time; and

B. Each proposal announced in appropriate manner.

7. Evaluation and scoring of cost criteria by individual appointed to evaluate cost. Each proposal must be delivered to the individual appointed to evaluate cost during the review period specified in the RFP. The appointed individual must calculate the cost scores for each acceptable proposal during the review period. The individual must calculate the scores for cost-related criteria in accordance with the applicable scoring formula, weighting, and any other scoring procedures contained in the RFP and then input the scores on a cost score sheet. *Utah Code § 63G-6a-707(6)(b) provides the duties of the person appointed to score cost criteria in each proposal.*

A. The individual appointed to evaluate cost has evaluated and scored the cost criteria for each acceptable proposal; and

B. The individual appointed to evaluate cost has input the cost scores for each proposal into a cost score sheet.

8. Evaluation and scoring of proposals by Evaluation Committee. The non-cost portion of each proposal must be delivered to the Evaluation Committee during the review period specified in the RFP. During the review period the Evaluation Committee must evaluate each proposal based solely on the non-cost evaluation criteria set forth in the RFP. The Evaluation Committee must assign a score for each proposal for each of the non-cost evaluation criteria set forth in the RFP, with such scores being determined in accordance with the applicable scoring formula, weighting, and any other scoring procedures contained in the RFP. The Evaluation Committee must not evaluate proposals based on criteria not listed in the RFP and each committee member must exercise independent judgment in the evaluations. The Evaluation Committee members are NOT allowed to know or have access to any information related to the cost or cost evaluation score of any proposal until after the Evaluation Committee has completed their evaluations and submitted its scores to the individual appointed to evaluate cost (see #9 below). The Evaluation Committee may, if it desires, hold their meetings and deliberations in private pursuant to Utah Code § 63G-6a-707(8). As part of the evaluation process, the Evaluation Committee may, with approval from the Board, receive assistance from outside experts or consultants to better understand an issue or have discussions or interviews with offerors for purposes of clarifying information in proposals. The rules the Evaluation Committee must follow when having these communications are in Utah Code § 63G-6a-707(4)-(5). *Utah Code § 63G-6a-707 outlines the rules related to the evaluation of proposals.*

A. The Evaluation Committee has evaluated each non-cost portion of each proposal based solely on the non-cost evaluation criteria set forth in RFP;

- B.** The Evaluation Committee has assigned a score for each proposal for each of the non-cost evaluation criteria set forth in the RFP; and
- C.** The Evaluation Committee has input the scores for each proposal into a separate score sheet.

NOTE on “best and final offers.” At any point during the evaluation process the Evaluation Committee may, under very limited circumstances and with approval of the Board, request best and final offers from offerors who have submitted acceptable proposals. **In most circumstances it is highly unlikely that the best and final offers process would be utilized.** *Utah Code § 63G-6a-707.5 states the rules an evaluation committee must follow when requesting best and final offers.*

9. Submitting Evaluation Committee score sheets to individual appointed to evaluate cost. After determining its scores for the non-cost criteria of each proposal and inputting them into a score sheet, the Evaluation Committee must submit the score sheet for each proposal to the individual appointed to evaluate cost. The Evaluation Committee generally cannot change its scores after they have been submitted. The Evaluation Committee also cannot change the scores for cost-related evaluation criteria that are calculated by the separate individual appointed to evaluate cost (*see #2 and #7 above*). *Utah Code § 63G-6a-707 discusses these rules.*

- A.** The Evaluation Committee has submitted the score sheets to the individual appointed to evaluate cost.

10. Review and completion of score sheets. After receiving the score sheets from the Evaluation Committee, the individual appointed to evaluate cost must (1) review the Evaluation Committee score sheets and correct any errors, scoring inconsistencies, and reported noncompliance with the Utah Procurement Code and (2) add the scores from the cost score sheet to the Evaluation Committee score sheets to derive the total combined score for each acceptable proposal. *Utah Code § 63G-6a-707(6)(b)(ii)-(iv) describes the responsibilities summarized above.*

- A.** The individual appointed to evaluate cost has reviewed the Evaluation Committee’s score sheets for each proposal;
- B.** The individual appointed to evaluate cost has corrected any errors, scoring inconsistencies, and reported noncompliance with the Utah Procurement Code;
- C.** The individual appointed to evaluate cost has added the scores from the cost score sheet to the Evaluation Committee score sheets to derive the total combined score (score for all cost and non-cost evaluation criteria) for each acceptable proposal; and
- D.** The individual appointed to evaluate cost has input the cost score for each proposal into the corresponding Evaluation Committee score sheet.

11. All score sheets provided to Evaluation Committee. After completing the steps above, the individual appointed to evaluate cost must provide all score sheets (including the completed Evaluation Committee score sheets) to the Evaluation Committee. The completed Evaluation Committee score sheets provide the Evaluation Committee with the total combined score calculated for each acceptable proposal.

- A.** The individual appointed to evaluate cost has provided all score sheets to the Evaluation Committee.

- 12. Submission of proposals and evaluation scores to the Board for review.** After receiving all score sheets, the Evaluation Committee must submit each proposal and each completed Evaluation Committee score sheet for each proposal to the Board for review, along with the Evaluation Committee’s recommendation on a winning offeror.
- A.** The Evaluation Committee has submitted each proposal and each completed Evaluation Committee score sheet for each proposal to the Board for review and has recommend a winning offeror to the Board; and
 - B.** The Board has reviewed each proposal and each completed Evaluation Committee score sheet for each proposal
- 13. Justification statement.** After each proposal and each completed Evaluation Committee score sheet for each proposal has been submitted to the Board, the Evaluation Committee and the Board must, in order to determine which proposal provides the best value to the School, prepare a written justification statement that: (1) explains the score assigned to each evaluation category; (2) explains how the proposal with the highest total combined score provides the best value to the School in comparison to other submitted proposals; (3) includes an informal cost-benefit analysis (but only if the Evaluation Committee assigns the highest score to a proposal other than the lowest cost proposal, AND the difference between the cost of the highest scored proposal and the lowest cost proposal exceeds the greater of \$10,000 or 5% of the lowest cost proposal); and (4) if an informal cost-benefit analysis is required and the Evaluation Committee chooses to waive some of the requirements regarding certain information that must be contained in the cost-benefit analysis, includes a written determination explaining, among other things, why awarding the contract to the higher cost offeror provides the best value to the School (see Utah Code § 63G-6a-708(5)) . The justification statement should be maintained in the file as it must be included in a written statement that will be available for review by each offeror and the public at the end of the RFP process after a contract is awarded. *Utah Code § 63G-6a-708 contains the requirements for a justification statement and cost-benefit analysis. An informal cost-benefit analysis explains, among other things, the advantage to the School in awarding the contract to the higher cost offeror and why the advantage to the School exceeds the value of the difference between the cost of the higher cost proposal and the cost of the lower cost proposals. However, if the cost-benefit analysis does not justify awarding the contract to the offeror with the highest score, the Board may not award the contract to that offeror. The Board may award the contract to the offeror whose proposal received the next highest score, unless such an award also triggers the informal cost-benefit analysis requirement and the cost-benefit analysis does not justify awarding the contract to that offeror. The Board must continue with this process of trying to award the contract to the offeror with the next highest score until (1) the Board is able to award the contract to an offeror in accordance with the requirements of Utah Code § 63G-6a-708 or (2) cancels the RFP.*
- A.** The Evaluation Committee and the Board have prepared a written justification statement containing all the requirements above, including a cost-benefit analysis (or other written determination if the cost-benefit analysis requirements are waived), if applicable; and
 - B.** The written justification statement is maintained in the file.
- 14. Awarding contract, rejecting highest scored proposals, and/or cancelling RFP.** After reviewing the proposals, completed score sheets, and justification statement, the Board must (1) award the contract as soon as practicable to the offeror whose proposal received the highest total score; (2) award the contract

to the offeror who received the next highest score if the Board rejects the highest scored proposal pursuant to Utah Code § 63G-6a-709(3); or (3) cancel the RFP without awarding a contract. *Utah Code § 63G-6a-709(2)-(5) sets forth the requirements for awarding contracts, rejecting proposals, and cancelling RFPs. Grounds for the Board rejecting a proposal whose offeror would have otherwise been awarded a contract include the Board finding (1) that the offeror has violated the Utah Procurement Code, is not responsible, has engaged in unethical conduct, or has failed to sign a contract within (a) 90 days after the contract award (if no deadline is specified in the RFP) or (b) the time authorized in writing by the Board; (2) there is a change in the offeror's circumstances that if known at the time the offeror's proposal was evaluated would have caused the proposal to not have received the highest score; or (3) the proposal is not responsive or does not meet the mandatory minimum requirements, evaluation criteria, or applicable score thresholds stated in the RFP. Such a finding by the Board in support of a proposal rejection must be reduced to writing and a copy provided to the offeror whose proposal was rejected. In addition, if the Board cancels an RFP without awarding a contract, it shall make available for public inspection a written justification for the cancellation.*

- A.** The Board has awarded the contract to the offeror whose proposal received the highest total score (or to the offeror with the second highest total score if the Board has appropriately rejected the highest scored proposal) or the Board has cancelled the RFP without awarding a contract.

- A.1, if applicable:** If the Board has rejected a proposal whose offeror would have otherwise been awarded a contract, the Board has satisfied all the applicable requirements above, including preparing a written statement supporting the rejection and providing a copy of the written statement to the offeror whose proposal was rejected.

- A.2, if applicable:** If the Board has cancelled the RFP without awarding the contract, the Board has prepared a written justification for the cancellation and has kept it on file in case the public requests to inspect it.

- 15. Publication of contract award and proposal scores.** On the next business day after the award of a contract is announced, a written statement containing the following information should be made available to each offeror and to the public upon request: (1) the name of the offeror to which the contract is awarded and the total score awarded by the Evaluation Committee to that offeror; (2) the justification statement, including any required cost-benefit analyses; and (3) the total score awarded by the Evaluation Committee to each other offeror who was not awarded the contract, without identifying which offeror received which score. The Board is not required to include in the written statement the names of the offerors to whom no contract was awarded, and the Board may use codes or other methods to identify such offerors so long as an offeror cannot be matched with the score awarded to that offeror. *See Utah Code § 63G-6a-709.5.*

- A.** A written statement containing the information outlined above has been prepared; and
- B.** The written statement has been sent to each offeror and has been made available to the public by the next business day after the award of the contract is announced.

- 16. Enter into agreement with winning offeror.**

- A.** The Board has engaged in contract negotiations with the offeror awarded the contract under the RPF and has entered into a written agreement with offeror.

17. Compile and file RFP documents. After the RFP process is fully completed, all RFP documents (written statements, RFP, proofs of publication, proposals, evaluations, score sheets, justification statement, contract, and all other applicable written RFP documents) should be compiled and maintained in a file.

A. All RFP documents have been compiled and put in a file.