

Purchase of Supplies and Equipment

Intent of Policy

The intent of this policy is to ensure that supplies and equipment are purchased in a fair and efficient manner, and to minimize operating costs and maximize the financial and business resources of Encore.

Board Authorization for Expenditure of Funds

All payment orders drawn on Encore's funds shall be authorized by either:

1. A majority of the members of the Board; or
2. By an officer or employee of Encore specifically authorized by the Board pursuant to this policy ("Purchasing Agent").

(Ed. Code § 42623.)

Authorized Purchasing Agents

The Board hereby authorizes the following officers and employees ("Purchasing Agents") to purchase supplies, materials, apparatus, and equipment in accordance with the requirements of this policy and applicable law:

1. Chief Executive Officer
2. Chief Operations Officer
3. Academic Director
4. Risk Manager
5. Student Services Manager

(Ed. Code § 42632.)

Purchases Prohibited From Delegation to Purchasing Agents

While the Board has authorized Purchasing Agents to purchase supplies and equipment, the following items are specifically exempted from this delegation of authority:

1. Any single item valued at more than \$10,000
2. Any service that is valued at more than \$10,000 annually

Prohibited Activities of Employees Who are Not purchasing Agents

Only the Board authorized Purchasing Agents have the authority to purchase supplies and equipment for Encore. Employees who are not Purchasing Agents shall not engage in any of the following on behalf of Encore:



1. Contact or communicate verbally or in writing with vendors or suppliers except to obtaining technical specifications or other information needed to request a purchase order;
2. Contact or communicate with vendors in a manner that might reasonably be interpreted as creating a contract or purchase agreement;
3. Make direct purchases of supplies or equipment;
4. Contract for any supplies or equipment; or
5. Request Encore purchase supplies or equipment in a manner that would create a conflict of interest or would otherwise violate state law, or this policy.

Unauthorized Purchases

Encore funds shall not be used to purchase supplies and equipment unless done through a Purchasing Agent pursuant to state law and this policy.

If an Encore officer, employee, or another individual makes an unauthorized purchase on behalf of Encore, the purchase shall be considered the personal obligation of that individual.

Any delivery of equipment or supplies to Encore without a valid Purchase Order is done at the risk of the vendor delivering the items.

Board Has Sole Authority to Enter Contracts

Pursuant to state law and this policy, the Board has the sole authority to enter contracts on behalf of Encore. This authority may not be delegated to any individual including the Purchasing Agents listed in this policy.

Purchasing Orders

All payments from Encore's funds shall be made by a written purchase order. ("Purchase Order" or "PO.") Encore will utilize a standardized Purchase Order either:

1. Prescribed by the San Bernardino County Superintendent of Schools pursuant to Education Code; or
2. Pursuant to Encore's online data processing system.

(Ed. Code § 42631.)

Process for Submitting Purchase Requests



All requests for the purchase of supplies and equipment for Encore shall be in accordance with the following procedures:

Requesting Purchases or Bids

All requests for the purchase of supplies and equipment shall be made by either Encore or department. Individual employees must make their requests through the school office or department.

When requesting the purchase of supplies or equipment, Encore or Department are responsible for:

1. Determining whether Encore has sufficient available funds to pay for the requested items;
2. Contacting the Controller early in the purchase process in order to consult with a Purchasing Agent(s) regarding specifications, sources of supplies, price advantages, and substitutions, and other information related to the specific reasons for the purchase request;
3. Ensuring that the requested supplies and equipment are necessary to Encore's operations and will be used for the proposed purpose;
4. Advanced planning of purchasing needs for the upcoming school year and taking proactive steps to consolidate similar items into a single purchase request; and
5. Ensuring that the Controller is timely informed of purchasing needs for the upcoming school year in the form and manner required by the Controller

Requirements for Purchases of More than \$90,200

In accordance with state law and this policy, the Board shall let any contracts involving an expenditure of more than \$50,000, adjusted for inflation (the "bid threshold," \$90,200 for school year 2018), for any of the following:

1. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to Encore;
2. Services, except construction services;
3. Repairs, including maintenance as defined in Public Contract Code § 20115, that are not a public project as defined in Public Contract Code § 22002(c).



The State Superintendent of Public Instruction is required to annually adjust the \$50,000 amount specified in Public Contract Code § 20111(a) to reflect the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States. Encore's bid threshold shall be automatically adjusted whenever the State Superintendent's annual adjustment becomes effective, typically January 1 of each year.

Bidding Procedures

All contracts for supplies and equipment in excess of Encore's bid threshold shall utilize Encore's Formal Bidding Procedures set forth in this policy.

(Pub. Contract Code, § 20111.)

Identical Bids

In the event that the Board receives identical bids, the Board shall determine by lot which bid shall be accepted.

Requirements for Purchases of \$90,200 or Less

The following requirements shall apply to the purchasing of materials, supplies, and equipment as determined by the purchasing amounts:

1. For Purchases up to \$5,000

The Purchasing Agents have the authority to make purchases of supplies, goods and materials up to \$5,000 as follows:

- a. Must receive proposal from at least one (1) vendor but may request additional proposals;
- b. Purchase Requests shall include:
 - i. The name and description of the item being requested;
 - ii. A description of the item the company;
 - iii. Name of the seller and/or company; and
 - iv. Specific amount being requested.
- c. Requests shall be vetted by Purchasing Agent to ensure that they are fair and reasonable; and



- d. Preference may be given to a vendor with an established, positive business history with Encore.

2. For Purchases of \$5,001 to \$10,000

The Purchasing Agents have the authority to make purchases of supplies, goods, and materials between \$5,001 and \$10,000 as follows:

- a. Must receive proposals from at least 3 vendors;
- b. Purchase Requests shall include:
 - i. The name and description of the item being requested;
 - ii. A description of the item the company;
 - iii. Name of the seller and/or company; and
 - iv. Specific amount being requested.
- c. Purchasing Agent shall follow Encore's Informal Bidding Process as defined by this policy.

3. For Purchases of \$10,001 to \$90,200

The Purchasing Agents have the authority to make purchases of supplies, goods, and materials between \$10,001 and \$90,200 as follows:

- a. Must receive proposals from at least 3 vendors;
- b. Purchase Requests shall include:
 - i. The name and description of the item being requested;
 - ii. A description of the item the company;
 - iii. Name of the seller and/or company; and
 - iv. Specific amount being requested.
- c. The Purchasing Agent shall follow the Encore's Informal/Formal Bidding Process as defined by this policy.

Splitting of Purchase Orders is Prohibited

It is unlawful for the Board, a Purchasing Agent, or any Encore employee to split or separate a Purchase Request or Purchase Order into smaller amounts to avoid the competitive bidding requirements of state law or this policy.

Informal Bidding Process

The “Informal Bid Process” requires the Purchasing Agent to obtain proposals from 3 or more vendors. The informal bidding process is as follows:

1. Request for Proposals

The Purchasing Agent shall request written proposals for the item. The request must state the specifications for the requested item(s), and the vendors’ deadline for submitting a written proposal. Encore may solicit proposals from local vendors as practicable.

2. Evaluating Proposals

The Purchasing Agent reviews all timely proposals and determines which vendor has made the lowest responsible bid. When making this determination, the Purchasing Agent shall consider the relative quality of the vendor’s items, shipping costs, or any other concerns relevant to Encore’s intended use of the item(s).

3. Selection of Vendor

After evaluating each of the proposals the Purchasing Agent may take any of the following actions:

- a. Award the proposal to the lowest responsible bidder;
- b. Waive any minor irregularities or errors in a proposal and accept the proposal;
- c. Reject any proposal due to non-waivable omissions, irregularities, or errors;
- d. Reject any proposal the Purchasing Agent determines to be not responsible; and/or
- e. Reject all proposals and determine whether to repeat the process until a lowest responsible bidder can be determined.

4. Executing Purchase Order

If a bid is awarded to a vendor, the Purchasing Agent shall execute a Purchase Order with the Vendor.

Formal Bidding Process

The “Formal Bid Process” is a competitive bidding process requiring the Purchasing Agent to circulate a bid request to all applicable vendors on Encore’s vendor list, to publicly post the bid request, and accept sealed bids.

1. Request for Bids

The Purchasing Agent shall solicit sealed bids from vendors on Encore’s list of vendors, and through public posting of the bid request. All interested vendors may submit sealed bids. The request must state the specifications for the requested item, the deadline for submitting the sealed written bid, and the time and location in which the sealed bids will be opened.

2. Opening Bids

The Purchasing Agent shall open all timely bids in a public meeting at the time and location stated in the bid request. Bids received after the deadline shall be marked “Not Received By Deadline”, and returned to the vendor unopened.

3. Evaluating Bids

The Purchasing Agent reviews all timely bids and determines which vendor has made the lowest responsible bid. When making this determination, the Purchasing Agent shall consider the relative quality of the vendor’s items, shipping costs, or other concerns relevant to Encore’s intended use of the item.

4. Selection of Vendor

After evaluating each of the proposals the Purchasing Agent shall take any of the following actions:

- a. Award the bid to the lowest responsible bidder;
- b. Waive any minor irregularities or errors in a bid and accept the bid;
- c. Reject any bid due to non-waivable omissions, irregularities, or errors;
- d. Reject any bid where the Purchasing Agent determines the vendor is not responsible;
and/or
- e. Reject all bids and determine whether to repeat the process until a lowest responsible bidder can be determined.

5. Notification of Bid Results



The Purchasing Agent shall notify the bidders of the bid results and post the bid results for public viewing. The notice shall include the apparent lowest qualified bidder, a description of the item(s) to be provided, and any other relevant bid information.

6. Protest Procedure

Under the Formal Bidding Procedures, a vendor who was not the lowest responsible bidder has the opportunity to protest the results of the bidding process and/or the manner in which it was conducted. Protest procedures should only be used after informal methods have failed to resolve the dispute. Bidders must exhaust Encore's administrative remedies before filing a civil action.

Bidders seeking to protest the bid award shall utilize the following Encore procedures:

- a. Within ten (10) business days from the date of public posting of the bid results, the protesting bidder shall submit a letter of protest to the Purchasing Agent, signed by an authorized representative of the bidder. The protest letter must include the specific reasons for the protest, any facts supporting the protest, and any law, regulation, or policy, that bidder claims was violated during the bidding process;
- b. If the Purchasing Agent finds the protest has merit, the Purchasing Agent may modify the bid award and then issue a notification to all bidders of the change in Encore's decision;
- c. Where a protest has been resolved or withdrawn the bid may be awarded in accordance with the Purchasing Agent's original recommendation;
- d. In the event the protest remains unresolved, the protest shall be submitted to the Board for consideration as a regular agenda item. All bidders shall be notified of the date on which the matter will be heard by the Board and may attend and address the Board at that meeting. The Board has the discretion to:
 - a. Accept or reject any or all bids;
 - b. Waive any informality, error, or irregularities in a bid; or
 - c. Make a bid award.

The decision of the Board shall be the final decision of Encore.

7. Executing Purchase Order

If a bid is awarded to a vendor either before or after a protest, the Purchasing Agent shall execute a Purchase Order or contract with the Vendor. A copy shall be kept maintained in Encore's Controller Office.

8. Additional Purchases From Winning Vendor

When a bid award is made through the Formal Bidding Process, a Purchasing Agent may dispense with separate bidding under the following conditions:

- a. The purchase is for the same items(s);
- b. The purchase is from the same vendor;
- c. The purchase is made within 12 months from the date Encore made its initial purchase under the contract or Purchase Order; and
- d. The vendor agrees to the same purchase price as stated in their bid.

Exception: If the cumulative total of the initial bid and the additional purchases exceeds \$10,000, the Purchasing Agent shall obtain the approval of the Board.

Cumulative Purchases

When the cumulative purchases of a particular commodity, or group of like commodities that is not exempt from competitive processes, reach \$25,000 the Purchasing Agent shall have one hundred twenty (120) days in which to solicit formal bids for additional purchases anticipated in the remainder of the fiscal year. In the interim 120-day period, the Purchasing Agent may use the informal bid process to make additional purchases that are urgent and necessary for the efficient operation of a department or department(s).

Exemption From Competitive Bidding

Competitive bidding shall be used to purchase supplies and equipment for Encore unless the item or the purchase is exempted from competitive bidding by this policy and/or state law.

Exemptions from competitive bidding include, but are not limited to the following:

1. The purchase amount is less than the cost thresholds for competitive bidding established by law and this policy;
2. Telecommunications purchases (Pub Cont, Code, § 20118.2);
3. Perishable Food (Ed. Code § 38083; Pub. Cont. Code § 20660);
4. Educational Materials (Pub. Cont. Code § 20118.3; Ed. Code § 81651);
5. Surplus federal property (Ed. Code §§ 17602, 81653);



6. “Piggybacking” on another public agency contract pursuant to applicable laws (Ed. Code § 17595; Pub. Cont. Code §§ 20118, 20652, 20653; Govt. Code § 14931.)

Surplus Federal Property- No Competitive Bidding

The Board or Purchasing Agent may purchase surplus property from the federal government or any agency thereof in any amount needed for the operation of Encore without competitive bidding.

(Ed. Code § 17602.)

Purchase of Educational Material

The Board or Purchasing Agent may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of its schools without taking estimates or advertising for bids.

(Pub. Cont. Code § 20118.3.)

Computers, Software, Telecommunications Equipment, Microwave Equipment and Related Electronic Equipment and Apparatus

The Board or Purchasing Agent(s) may purchase computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment through detailed request and competitive negotiation pursuant to Public Contracting Code § 20118.2.