

#### **6-21-304. Manner of making purchases.**

**(a) (1)** All purchases of commodities by any school district, except those specifically exempted by § 6-21-305, shall be made as follows:

**(A)** In each instance in which the estimated purchase price shall equal or exceed ten thousand dollars (\$10,000), the commodity shall be procured by soliciting bids, provided that the purchasing official may reject all bids and may purchase the commodity by negotiating a contract. If the purchasing official, after rejecting all bids, determines that the purchase should be made by negotiation, then each responsible bidder who submitted a bid shall be notified of the determination and shall be given a reasonable opportunity to negotiate;

**(B)** Open market purchases may be made when the purchase price is less than ten thousand dollars (\$10,000); and

**(C)** No purchasing official shall parcel or split any item or items with the intent or purpose to enable the purchase to be made under a less restrictive procedure.

**(2) (A)** In soliciting bids for the purchase of a commodity, a school district or a person or organization acting on behalf of a school district shall not impose qualifications or specifications that unreasonably restrict competition for the purchase of a commodity.

**(B) (i)** As used in this subdivision (a)(2), "specifications" means a technical description or other description of the physical or functional characteristics of a commodity.

**(ii)** Specifications shall not include the name or identity of any specific vendor.

**(3) (A)** A school district shall notify in writing all actual or prospective bidders, offerors, or contractors who make a written request to the school district for notification of opportunities to bid.

**(B)** Notice under subdivision (a)(3)(A) of this section shall be provided in sufficient time to allow actual or prospective bidders, offerors, or contractors to submit a bid or otherwise appropriate response.

**(4) (A)** Any competitive bid submitted to a school district in response to a solicitation for bids for the purchase of a commodity shall be accompanied by a form substantially similar to the following that is signed and notarized by the agent of the bidder:

[Click here to view form](#)

**(B)** Any person determined to have made a false statement on the form prescribed by subdivision (a)(4)(A) of this section or any bidder who acts contrary to the provisions of the form after its agent has executed the form shall be guilty of a Class C misdemeanor.

**(5) (A)** Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a school district contract may protest to the superintendent of the school district in accordance with procedures established by the board of directors of the school district.

**(B)** Protest procedures shall include, at a minimum, provisions addressing the following:

**(i)** The superintendent's authority to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract;

**(ii)** Submission of a protest in writing within seven (7) calendar days after the aggrieved person knows or should have known of the facts giving rise to the protest;

**(iii)** The provision of reasonable notice to all persons involved and reasonable opportunity for those persons to respond to the protest issues;

**(iv)** The issuance of a prompt decision in writing that states the reasons for the action taken which is provided to all interested parties;

**(v)** The impact of a protest on continuing with the solicitation or award of the school district contract pending the resolution of the protest; and

**(vi)** The award of costs with regard to successful protests.

**(C)** A decision on a protest under this section shall be final and conclusive.

**(b) (1)** The local school board of directors shall have exclusive jurisdiction for the purchase of Types A, B, C, and D school buses.

**(2)** The Commission for Arkansas Public School Academic Facilities and Transportation shall have responsibility for drawing up the minimum specifications for all school buses.

**(3)** An advisory committee made up of ten (10) school administrators representing all sizes of schools and all areas of the state shall assist the department in drawing up specifications for school buses.

**(4) (A)** A local school board of directors may request the State Procurement Director to solicit bids for school buses on its behalf.

**(B)** If a request is made, the Office of State Procurement shall take bids from all school bus body and chassis manufacturers doing business in Arkansas.

**(5)** If a local school board of directors chooses to purchase school buses other than through the office, the board of directors shall forward no later than twenty (20) days after the bid award the following documents to the office:

**(A)** A copy of all the bid specifications;

**(B)** A list of invited bidders;

**(C)** Copies of all correspondence sent out by the school district to bidders and all correspondence received by the school district from bidders;

**(D)** A complete bid tabulation; and

**(E)** A copy of the bid award.

**(c)** For the purposes of this section:

**(1)** A "Type A school bus" is a conversion or body constructed upon a van-type compact truck or a front-section vehicle with a gross weight rating of ten thousand pounds (10,000 lbs.) or less and designed for carrying more than ten (10) persons;

**(2)** A "Type B school bus" is a conversion or body constructed and installed upon a van or front-section vehicle chassis or stripped chassis with a vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. Part of the engine is beneath or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels;

**(3)** A "Type C school bus" is a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. All of the engine is in front of the windshield. The entrance door is behind the front wheels; and

**(4)** A "Type D school bus" is a body installed upon a chassis with the engine mounted in the front, midship, or rear with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. The engine may be behind the windshield and beside the driver's seat, at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels. **(2)** An electronic warning device as defined under § 6-19-125.