

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

AGENDA ITEM: 7 – D
DATE: December 13-14, 2023

SUBJECT

Revised BOR Policy 5.4 – Purchasing (First and Final Reading)

CONTROLLING STATUTE, RULE, OR POLICY

[BOR Policy 5.4](#) – Purchasing

BACKGROUND / DISCUSSION

This policy has been updated to include changes related to SDCL § 5-18A-11, which raised the threshold for RFPs on supplies to \$50,000. Attachment I shows the proposed changes.

IMPACT AND RECOMMENDATIONS

By making these changes, the BOR Policy manual will reflect changes made by the Legislature for supply purchasing thresholds.

The Business Affairs Council has reviewed and agrees with the changes.

ATTACHMENTS

Attachment I – BOR Policy 5.4 – Purchasing

DRAFT MOTION 20231213_7-D:

I move to (1) waive the two-reading requirement of By-Laws Section 5.5.1, and (2) approve the first and final reading of BOR Policy 5.4 – Purchasing with the revisions as shown in Attachment I.

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Purchasing

NUMBER: 5.4

A. PURPOSE

To ensure all South Dakota Codified Laws, South Dakota administrative rules, South Dakota Board of Regents policies and United States government requirements and regulations are adhered to when purchasing equipment, supplies and services for institutions and offices under the control of the South Dakota Board of Regents.

B. DEFINITIONS

- 1. Capital Assets:** Any moveable equipment with an expected life of one year or more and a single unit purchase cost of \$5,000 or more.
- 2. Competitive Bids:** A formal process used to solicit competitive pricing from multiple suppliers. Methods include Invitation for Bid (IFB) and Request for Proposals (RFP).
- 3. Competitive Quotes:** An informal process used to solicit competitive pricing from multiple suppliers.
- 4. South Dakota Codified Law (SDCL):** South Dakota Codified Laws pertaining to the acquisition of equipment, supplies and services including 5-18A, B & D.
- 5. SDezBuy:** The South Dakota Board of Regents eProcurement System.
- 6. Shared Services:** Purchasing departments at SDBOR institutions that have been assigned certain commodities for managing on behalf of all SDBOR institutions.
- 7. Supplies:** Any property, including equipment, supplies, materials, and printing.

C. POLICY

SDCL §13-49-15 and §13-49-16 provide the Board with power to purchase equipment, supplies, and services, as long as such purchases are in accordance with SDCL §5-18A, B & D.

The Board has delegated authority to enter into contracts for the purchase of equipment, supplies, and services by the institution except as delineated otherwise in this policy. All purchases shall be made in accordance with the following policy.

Institutions may at their discretion, apply more restrictive procedures than those listed in BOR Policy 5.4.

1. State Contracts

The State of South Dakota through the Office of Procurement Management maintains various contracts. The contracts are bid by the State of South Dakota or are national contracts the state participates in. These contracts must be utilized as the first source unless it is more cost effective to purchase the items from other sources.

2. Shared Services

Purchasing Shared Service Centers shall exist to create efficiencies in the purchasing process through Purchasing Specialists. Purchasing Specialists shall manage assigned commodities in an effort to reduce costs and to provide expertise to departments. A complete list of commodity assignments is available from the SDezBuy procurement system.

3. Supply Purchases under \$4,000

Orders for supplies with a total cost of less than \$4,000 shall be obtained by using sound business practices in the best interest of the institution. The following methods may be used for the acquisition of these items; purchase requisition/purchase order, direct pay invoice, procurement card payment or employee reimbursement.

4. Supply Purchases between \$4,000 and \$50,000

According to SDCL §5-18A-11, any order with a total cost exceeding \$4,000 and less than \$50,000, requires a minimum of three competitive quotes unless the item(s) is available from existing contracts; are considered exempt as outlined in SDCL 5:18A-22 and Section 6 below; or are justifiably a sole source. Orders for any non-exempt item(s) must be approved by Office of Procurement Management unless the item(s) is available from a contract recognized by the State of South Dakota. The purchasing department will be responsible for obtaining competitive quotes and approval from the Office of Procurement Management if applicable. Orders in excess of \$4,000 must be submitted on a purchase requisition.

5. Supply Purchases exceeding \$50,000

Supplies with a total cost exceeding \$50,000 must be bid by the Office of Procurement Management unless the item(s) is available from existing contracts; is considered exempt as outlined in SDCL 5:18A-22 and Section 6 below; or is justifiably a sole source. All sole source requests must be submitted on the standard sole source request form and requires approval by the Office of Procurement Management. Bids for non-exempt items must be coordinated with the Office of Procurement Management, through the Purchasing Department. Orders in excess of \$50,000 must be submitted on a purchase requisition.

6. Exempt Items

SDCL §5-18A-22 provides an exemption from competitive bidding requirements for supplies referenced in this section (see 6.1 – 6.10 below). Exempt supplies shall be purchased using sound business practices and in the best interest of the institution. The Purchasing department shall review exempt orders to determine if competitive quotes

should be solicited. Applicable federal bidding requirements if funded from federal funds must be adhered to.

- 6.1. Any contract for the purchase of supplies from the United States or its agencies or any contract issued by the General Services Administration;
- 6.2. Any purchase of supplies or services, other than professional services, by purchasing agencies from any active contract that has been awarded by any government entity by competitive sealed bids or competitive sealed proposals or from any contract that was competitively solicited and awarded within the previous twelve months;
- 6.3. Any equipment repair contract;
- 6.4. Any procurement of electric power, water, or natural gas; chemical and biological products; laboratory apparatus and appliances; published books, maps, periodicals and technical pamphlets; works of art for museum and public display; medical supplies; communications technologies, computer hardware and software, peripheral equipment, and related connectivity; tableware or perishable foods;
- 6.5. Any supplies, services, and professional services required for externally funded research projects at institutions under the control of the Board of Regents;
- 6.6. Any property or liability insurance or performance bonds, except that the actual procurement of any insurance or performance bonds by any department of the state government, state institution, and state agency shall be made under the supervision of the Bureau of Administration;
- 6.7. Any printing involving student activities conducted by student organizations and paid for out of student fees;
- 6.8. Any purchase of surplus property from another purchasing agency;
- 6.9. Any animals purchased;
- 6.10. Any seeds, fertilizers, herbicides, pesticides, feeds, and supplies used in the operation of farms by institutions under the control of the Board of Regents.

7. Technology Purchases

- 7.1. All orders for technology related items (computer hardware, software and audio visual) must be approved in accordance with the Institution's IT approval process.
- 7.2. In addition, technology purchases are subject to the BOR Policy 7.6 – Technology Purchases.

8. Executive Director and Board Approval

- 8.1. Purchases of capital assets with a per-unit cost between \$250,000 and \$500,000 must be approved by the Executive Director of the Board of Regents prior to a purchase order being issued.
- 8.2. Purchases of capital assets with a per-unit cost exceeding \$500,000 that are not funded by a grant or donation must be approved by the Board of Regents prior to a purchase order being issued.

- 8.3. Purchases of capital assets with a per-unit cost between \$500,000 and \$1,000,000 that are fully funded by a grant or donation must be approved by the Executive Director of the Board of Regents prior to a purchase order being issued.
- 8.4. All capital asset requests must be submitted to the Board of Regents for approval on the standard Capital Asset Request form <https://public.powerdms.com/SDRegents/documents/1727286>
- 8.5. Refer to the BOR meeting calendar at <https://sdbor.edu/meeting-information/> for meeting schedules. Questions should be referred to the campus Purchasing Department.

9. Printing Projects

- 9.1. Per Bureau of Administration Administrative Rule 10:02:03:01 any publication, pamphlet, flyer, or brochure with a total cost exceeding \$100 and for distribution to the public at large, must bear an inscription indicating the number of copies made, the approximate cost per copy, and the name of the printer. Refer to the following link for more detail: <http://legis.state.sd.us/rules/index.aspx>.
- 9.2. An exemption to this requirement has been granted to all Board of Regents institutions for the following items:
- Materials used for the recruitment of students
 - Materials used for recognition of students and employees including graduation programs, diplomas and certificates of recognition
 - Programs for athletic events that are sold to the general public.

10. Environmentally Preferred Products

Bureau of Administration Administrative Rules 10:02:05:01 through 10:02:05:15 pertain to the use of environmentally preferred products when purchasing printing projects, paper stock, and cleaning and maintenance equipment and supplies. Refer to these rules when purchasing these items. If the total cost of recycled paper exceeds the cost of virgin stock by 5% or more, virgin stock may be used.

11. Non-Professional Services

- 11.1. Any contract for non-professional services in excess of \$25,000 must be awarded through a competitive bid process, unless the service is considered a sole source. This process may include a IFB or RFP. Non-professional services include services which are typically physical or manual in nature, examples include: bussing contracts, snow removal, garbage contracts, etc.
- 11.2. Any contract in excess of \$250,000 requires approval from the SDBOR Executive Director.

12. Professional Services

- 12.1. Any contract for professional services in excess of \$50,000 must be awarded through a Request for Proposal process unless such services are considered exempt. The requirements listed in SDCL §5-18D-17 through §5-18D-22 shall

be followed.

12.2. Professional services are classified as: services arising out of a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill, and the labor or skill involved is predominantly mental or intellectual, rather than physical or manual.

12.3. Any contract in excess of \$250,000 requires approval from the SDBOR Executive Director.

13. Construction and public improvement projects are not considered services and are governed by BOR Policy 6.4 and 6.6 as well as SDCL 5:18-B.

14. Debarred and/or Suspended Vendors

Institutions shall comply with BOR Policy 1.7.4 to ensure that vendors or contractors are checked against appropriate governmental exclusion, debarment, and suspension lists. Per federal law, any purchase made from federal funds exceeding \$25,000 may not be made from a vendor that has been debarred or suspended from doing business with the federal government. Any purchase order meeting this requirement shall be certified by checking the following website: www.sam.gov and a copy of the results attached to the purchase order.

FORMS / APPENDICES:

[Capital Asset Request Form](#)

SOURCE:

BOR October 1991; BOR October 1992; BOR March 1995; BOR January 1999; BOR March 2003; BOR March 2005; BOR October 2007; BOR December 2009; BOR April 2010; BOR June 2010; BOR June 2011; BOR October 2017; BOR December 2020; January 2021 (Clerical); October 2023 (Clerical); BOR December 2023.