

### BIDDING REQUIREMENTS

In accordance with state bidding laws, bidding is required when a purchase or contract equal to or exceeding \$25,000 is anticipated, or if the contract is for the construction of a public improvement in excess of \$50,000, except in the following cases:

1. For the purchase of utility services such as electric power, lights, water, or gas;
2. Purchases of materials, supplies, or equipment from the United States or its agencies including Federal surplus property;
3. Equipment repair contracts;
4. For textbooks and text-related workbooks;
5. When purchasing facilities, equipment, and supplies from another public corporation or at public auctions if in compliance with SDCL 5-18-18.2;
6. Purchases from the lowest bidder of an item contained on the state price list or from any vendor for the exact same item if less than the state price list;
7. Purchases from the lowest responsible bidder of an item competitively bid by any local government within the previous twelve months, unless trade in allowances are involved;
8. Purchases of raw materials used in construction or manufacture of products for resale, and contracts for asbestos removal in emergency response actions, real estate services, and auction services (5-18-18-1);
9. For services provided by individuals or firms for consultants, audits, legal services, architectural and engineering services, insurance, and transportation of students;
10. Purchases of computer programs and software, communication technologies, computers, peripheral equipment, and related connectivity;
11. Change orders to an existing contract for construction, reconstruction, or remodeling that are in compliance with SDCL 5-18-18.3;
12. Purchases of real property having a particular use or benefit;
13. Guaranteed energy savings contracts (SDCL 1-33B-9);
14. Purchases of perishable or unprepared foodstuffs;
15. Upon the purchase of copyrighted materials that are copyrighted by only one company (SDCL 13-20-6);
16. If there is only one source for the required service or item of tangible personal property, other than construction services or equipment (5-18-9.4);
17. An emergency due to a casualty loss, natural disaster, or sudden deterioration resulting in destruction to a vital piece of equipment which would require closing of school, or which will endanger the usefulness of remaining school property (13-20-4).

Bids for materials, supplies, or equipment will be advertised and printed in the official newspaper of the district at least twice, the first publication at least ten (10) days prior to the opening of bids. The advertisement will state the time and place the

bids will be opened and passed upon by the board. In the notice the board will reserve the right to reject any and all bids.

When the contract is for the construction of a public improvement, the advertisement must state where the plans and specifications may be examined. In specifying or purchasing goods, merchandise, supplies, or equipment, the board will not specify any trademark or copyrighted brand on any product or any patented product, apparatus, device, or equipment where proper competition will be prevented, unless bidders also are asked for bids or offers upon other articles of like nature, utility, and merit, and naming the make or brand to indicate the type or quality specified.

The sealed bids will be publicly opened and read at the time and place stated in the advertisement. Any bid may be withdrawn or modified before the time of opening as specified in the advertisement. Unless all bids presented are rejected, the lowest responsible bid, in all cases, must be accepted.

If after advertising for bids no bids are received, the board may negotiate a contract for the purchase of the materials, supplies, or equipment at the most advantageous price. However, such materials, supplies, or equipment will meet the specifications of the original advertisement for bids.

The board will contact and attempt to obtain competitive quotations from at least three suppliers. A record of the names of the suppliers, the quotations received, and the procurement procedures used in purchasing will be documented, noted in the minutes, and retained on file by the board. The board may reject all bids and negotiate a contract if, after advertising, no firm competitive bids are received.

When supplies or equipment, or construction or remodeling services are to be purchased, the board may require a reasonable deposit or bid bond by the bidders. The deposit or bonds must be returned to unsuccessful bidders immediately. No more than 30 days will elapse between opening of bids and acceptance of the lowest responsible bidder or rejection of all bids.

LEGAL REFS.: SDCL 5-18-1; 5-18-1.1; 5-18-9.4; 5-18-3; 5-18-18; 5-18-18-1; 5-19-2;  
13-20-3; 13-20-4; 13-20-5; 13-20-6; 13-20-7; 13-20-7.1; 13-20-8;  
13-16-6.1;  
A.G. Opinion 77-65, 77-76, 77-87, 85-24, 86-01 and 86-2