

Brecksville-Broadview Heights City School District

Bylaws & Policies

6144 - INVESTMENTS

It is the policy of the Board of Education to invest public funds in a manner which will provide the highest investment return with the maximum security, safety and preservation of principal while meeting the daily cash flow demands of the School District and conforming to all applicable statutes governing the investment of public funds by an Ohio school district. The Treasurer/CFO is the investment officer of the School District, charged with the responsibility for the purchase and sale of investments and the carrying out of this Investment Policy.

Scope

This Investment Policy applies to all financial assets of the School District, including State and Federal funds held by it. The Treasurer/CFO shall routinely monitor the contents of the School District's investment portfolio, the available markets and relative value of competing investments and will adjust the portfolio accordingly.

Prudence

Investments shall be made with judgment and care – under circumstances then prevailing – which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The standard of prudence to be used by the Treasurer/CFO shall be the "prudent person" Standard and shall be applied in the context of managing the overall portfolio. Acting in accordance with this Investment Policy and exercising due diligence shall relieve the Treasurer/CFO of personal responsibility for an individual's security credit risk or market price changes, provided deviations from expectations are reported to the Board in a timely fashion and appropriate action is taken to control adverse development.

Objectives

The primary objectives, in priority order, of the School District investment activities shall be:

- A. **Safety:** Safety of principal is the foremost objective of the investment program. Investments of the School District shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
- B. **Liquidity:** The School District's investment portfolio will remain sufficiently liquid to enable it to meet all operating requirements that might be reasonably anticipated.
- C. **Return on Investment:** The School District's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account this Investment Policy and the cash flow characteristics of the portfolio.

Ethics and Conflict of Interest

Persons involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment consultants shall disclose to the Board any material financial interests in financial institutions that conduct business within the School District and any large personal financial or investment portfolio.

Authorized Financial Dealers and Institutions

The Treasurer/CFO will maintain a list of financial institutions and approved security broker/dealers who are authorized to provide investment services and which qualify under Section 135.14(M)(1) of the Revised Code. These may include "primary" dealers or regional dealers who qualify under Securities & Exchange Commission Rule 15C3-1 and are registered with the Ohio Department of Commerce to do business in the State.

All financial institutions and broker/dealers who desire to become qualified suppliers of investment transactions to the School District must provide the Treasurer/CFO with audited annual financial statements. All financial institutions, broker/dealers and consultants who desire to conduct investment business with the School District must sign this Investment Policy, certifying they have read it, understand it and agree to abide by its contents.

Authorized Investments

The School District is empowered by statute to invest in the following types of securities:

- A. United States Treasury bills, notes, bonds or any other obligation or security issued by the United States Treasury or any other obligation guaranteed as to principal and interest by the United States;
- B. Bonds, notes, debentures, or other obligations or securities issued by any Federal government agency or instrumentality, including but not limited to the Federal National Mortgage Association, Federal Home Loan Bank, Federal Farm Credit Bank, Federal Home Loan Mortgage Association, Government National Mortgage Association and Student Loan Marketing Association. All such securities shall be direct issuances of Federal government agencies or instrumentalities;
- C. Interim deposits in duly authorized depositories of the School District, provided those deposits are properly insured or collateralized as required by law;
- D. Bonds and other obligations of the State of Ohio, or the political subdivisions of this state, provided that, with respect to bonds or other obligations of political subdivisions, all of the following apply:

(a) The bonds or other obligations are payable from general revenues of the political subdivision and backed by the full faith and credit of the political subdivision.

(b) The bonds or other obligations are rated at the time of purchase in the three highest classifications established by at least one nationally recognized standard rating service and purchased through a registered securities broker or dealer.

(c) The aggregate value of the bonds or other obligations does not exceed twenty per cent of interim moneys available for investment at the time of purchase.

(d) The treasurer or governing board is not the sole purchaser of the bonds or other obligations at original issuance.

No investment shall be made under division (B)(4) of this section unless the treasurer or governing board has completed additional training for making the investments authorized by division (B)(4) of this section. The type and amount of additional training shall be approved by the treasurer of state and may be conducted by or provided under the supervision of the treasurer of state.

D-E. No-load money market mutual funds consisting exclusively of securities described in paragraphs A and B of this Section and repurchase agreements secured by such obligations, provided all such investments under this paragraph E shall be made with a bank or savings and loan association eligible to be a depository for public funds of Ohio subdivisions and provided further that any such fund meets the requirements of Chapter 135 of the revised code, including that such fund not include any investment in a "derivative."

E-F. STAROhio;

F-G. Overnight or term (not exceeding thirty (30) days) repurchase agreements meeting the requirements of Section 133.14(C) of the revised code, with a bank or savings and loan association eligible to be a depository for public funds of Ohio subdivisions or a member of the National Association of Securities Dealers; and

G-H. Bankers acceptances and commercial paper notes, up to a maximum of ~~twenty-five~~forty percent

(~~2540%~~), ~~and each~~ with a maturity not exceeding ~~180-270~~ days for commercial paper and 180 days for bankers acceptances, and meeting all of the requirements of Section 135.142 of the revised code, but only upon specific authorization of the Board required by law and completion of the required training by the Treasurer/CFO.

Diversification

The School District will diversify its holdings of investments by avoiding concentrations of specific issuers and maturities.

Maximum Maturities

To the extent possible, the School District will attempt to match its investments with anticipated cash flow requirements. No investment shall be made unless the Treasurer/CFO, at the time of making the investment, reasonably expects it can be held to its maturity. Unless matched to a specific obligation or debt of the School District, the School District will not directly invest in securities listed as A through E above maturing more than five (5) years from the date of settlement.

Safekeeping and Custody

Securities will be held by a third party custodian designated by the Treasurer/CFO and evidenced by safekeeping receipts. Securities shall be pledged at the Federal Reserve Bank to collateralize all repurchase agreements with financial institutions. Pledge collateral will be released by the School District only after verification that the principal and interest have been credited to the School District's account.

Prohibited Investment Practices

The School District shall not:

- A. Contract to sell securities that have not yet been acquired on the speculation that prices will decline;
- B. Make any investment in derivatives;
- C. Invest in stripped principal or interest obligations of otherwise eligible instruments;
- D. Invest in a fund established by another public body for the purpose of investing public money of other subdivisions (other than STAROhio); or
- E. Leverage current investments as collateral to purchase other assets.

Internal Controls

The Treasurer/CFO shall develop and maintain procedures for the operation of the School District's investment program in accordance with this Investment Policy. These procedures shall be designed to prevent loss of the School District's funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent action.

Non-Binding Arbitration

The Treasurer/CFO may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to non-binding arbitration (but **not** binding arbitration) to settle any controversy that may arise out of that agreement so long as such provision meets the requirements of the Revised Code and is specifically approved by the Board.

Investment Advisors

In making investments authorized by Section 135.14 of the Revised Code, the Treasurer/CFO may retain the services of an investment advisor, provided the advisor is licensed by the Division of Securities under Section 1707.141 of the Revised Code, or is registered with the Securities and Exchange Commission, or is an eligible institution.

Reporting

The Treasurer/CFO shall maintain a current inventory of all investments including:

- A. Description of each security;
- B. Cost;
- C. Par value;
- D. Dates (beginning, settlement and maturity); and
- E. Rates.

The Treasurer/CFO shall also prepare and distribute monthly (or more frequently if requested by the Board) a report of all investments.

Investment Policy Adoption

This Investment Policy shall be adopted by the Board of Education and upon adoption, filed in the Office of the Auditor of State. The policy shall be reviewed on a periodic basis by the Board or a committee designated by it and any modifications made thereto must be approved by the Board and, upon adoption, filed in the Office of the Auditor of State. After adoption, a copy of this policy must be forwarded to each broker or dealer doing business with the Brecksville-Broadview Heights Board of Education. Their signature will be required indicating they have received, read, understand and will abide by its contents when recommending or selling investments to the District.

CERTIFICATION OF READING, UNDERSTANDING AND ACCEPTANCE

The undersigned, _____, hereby certifies that it has read, understands, and will accept and abide by this Investment Policy and the relevant provisions of the Revised Code in its dealings with the Brecksville-Broadview Heights City School District, that binding arbitration provisions are not permitted and any non-binding arbitration provisions must be expressly approved by the Board, and that officer executing this Certification is authorized to do so on behalf of the undersigned.

By: _____

Title: _____

Date: _____, 201_ .

R.C. 133.23, 135.01-.21, 135.22, 45, 135.142, 3317.06, 3315.01, 3315.40, 5705.10

NEW POLICY - VOL. 34, NO. 2

PROCUREMENT – FEDERAL GRANTS/FUNDS

Procurement of all supplies, materials, equipment, and services paid for from Federal funds or District matching funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of the Federal grant, Board of Education policies, and administrative procedures.

The Superintendent shall maintain a procurement and contract administration system in accordance with the USDOE requirements (2 CFR 200.317-.326) for the administration and management of Federal grants and Federally-funded programs. The District shall maintain a contract administration system that requires contractors to perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Except as otherwise noted, procurement transactions shall conform to the provisions of the District's documented general purchasing Policy 6320 and AG 6320.

All District employees, officers, and agents who have purchasing authority shall abide by the standards of conduct covering conflicts of interest and governing the actions of its employees, officers, and agents engaged in the selection, award, and administration of contracts as established in Policy 1130, Policy 3110 and Policy 4110 – Conflict of Interest.

The District will avoid acquisition of unnecessary or duplicative items. Additionally, consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with Federal funds.

To foster greater economy and efficiency, the District may enter into State and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

Competition

All procurement transactions shall be conducted in a manner that encourages full and open competition and that is in accordance with good administrative practice and sound business judgement. In order to promote objective contractor performance and eliminate unfair competitive advantage, the District shall exclude any contractor that has developed or drafted specifications, requirements, statements of work, or invitations for bids or requests for proposals from competition for such procurements.

Some of the situations considered to be restrictive of competition include, but are not limited to, the following:

- A. unreasonable requirements on firms in order for them to qualify to do business
- B. unnecessary experience and excessive bonding requirements
- C. noncompetitive contracts to consultants that are on retainer contracts
- D. organizational conflicts of interest
- E. specification of only a "brand name" product instead of allowing for an "*or equal*" product to be offered and describing the performance or other relevant requirements of the procurement
- F. any arbitrary action in the procurement process

Further, the District does not use statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, unless (1) an applicable Federal statute expressly mandates or encourages a geographic preference; or (2) the District is contracting for architectural and engineering services, in which case geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

To the extent that the District uses a pre-qualified list of persons, firms or products to acquire goods and services, the pre-qualified list includes enough qualified sources as to ensure maximum open and free competition. The District allows vendors to apply for consideration to be placed on the list _____ **[insert frequency. see Drafting Note].**

[Drafting Note: The District shall allow vendors not on the pre-qualified list to apply for placement on the list periodically. The District may determine how frequently the pre-qualified list becomes open for new vendors or whether it is open continuously.]

Solicitation Language

The District shall require that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which shall be met by offers shall be clearly stated; and identify all requirements which the offerors shall fulfill and all other factors to be used in evaluating bids or proposals.

The Board will not approve any expenditure for an unauthorized purchase or contract.

Procurement Methods

The District shall utilize the following methods of procurement:

() Micro-purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$ _____ (not to exceed \$3,500). To the extent practicable, the District shall distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if the Superintendent considers the price to be reasonable. The District maintains evidence of this reasonableness in the records of all purchases made by this method.

() Small Purchases

Small purchase procedures provide for relatively simple and informal procurement methods for securing services, supplies, and other property that does not exceed the competitive bid threshold of \$ _____. Small purchase procedures require that price or rate quotations shall be obtained from () _____ () an adequate number of qualified sources.

() Sealed Bids

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, or equipment which amounts to \$25,000 and when the Board determines to build, repair, enlarge, improve, or demolish a school building/facility the cost of which will exceed \$25,000.

In order for sealed bidding to be feasible, the following conditions shall be present:

1. a complete, adequate, and realistic specification or purchase description is available;
2. two (2) or more responsible bidders are willing and able to compete effectively for the business; and
3. the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

1. Bids shall be solicited in accordance with the provisions of State law and Policy 6320. Bids shall be solicited from () _____ () an adequate number of qualified suppliers, providing sufficient response time prior to the date set for the opening of bids. The invitation to bid shall be publicly advertised.
2. The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
3. All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.

4. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken.
5. The Board reserves the right to reject any or all bids for sound documented reason.

() Competitive Proposals

Procurement by competitive proposal, normally conducted with more than one source submitting an offer, is generally used when conditions are not appropriate for the use of sealed bids or in the case of a recognized exception to the sealed bid method. **[Drafting Note: Like sealed bids, Federal law does not require a competitive proposal unless the procurement is for over \$150,000. The State/District may set a lower threshold for sealed bids and competitive proposals. Ohio law requires sealed bids for a purchase of \$25,000 or more (see Policy 6320).]**

If this method is used, the following requirements apply:

1. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
2. Proposals shall be solicited from an () _____ () adequate number of sources.
3. The District shall use its written method for conducting technical evaluations of the proposals received and for selecting recipients.

4. Contracts shall be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

() Noncompetitive Proposals

Procurement by noncompetitive proposals allows for solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. the item is available only from a single source
2. the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
3. the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District
4. after solicitation of a number of sources, competition is determined to be inadequate

Contract/Price Analysis

The District shall perform a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the District shall come to an independent estimate prior to receiving bids or proposals.

When performing a cost analysis, the District shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Time and Materials Contracts

The District uses a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the District is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the District sets a ceiling price for each contract that the contractor exceeds at its own risk. Further, the District shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Suspension and Debarment

The District will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the District and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the District shall consider such factors as (1) contractor integrity; (2) compliance with public policy; (3) record of past performance; and (4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The District is subject to and shall abide by the nonprocurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180.

Suspension is an action taken by the District that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR Part 180 Subpart G)

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR Part 180 Subpart H)

The District shall not subcontract with or award subgrants to any person or company who is debarred or suspended. For contracts over \$25,000, the District shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management, which maintains a list of such debarred or suspended vendors at www.sam.gov; collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 CFR Part 180 Subpart C)

Bid Protest

The District maintains the following protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Superintendent within seventy-two (72) hours of the opening of the bids in protest.

Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

Maintenance of Procurement Records

The District maintains records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (including a cost or price analysis).

Applicable laws and regulations:
2 C.F.R. 200.317 - .326

REVISED POLICY - VOL. 34, NO. 2TRAVEL PAYMENT & REIMBURSEMENT

Travel expenses incurred for official business travel on behalf of the Board of Education shall be limited to those expenses necessarily incurred by the employee in the performance of a public purpose authorized, in advance, in accordance with administrative guidelines.

Payment and reimbursement rates for per diem meals, lodging, and mileage shall be approved by the Board annually. The Board shall establish mileage rates () in accordance with (X) not exceeding the Federal IRS prescribed mileage rate.

Employees are expected to exercise the same care incurring travel expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Unauthorized costs and additional expenses incurred for personal preference or convenience will not be reimbursed.

Unauthorized expenses include but are not limited to alcohol, movies, fines for traffic violations, and the entertainment/meals/lodging of spouses or guests.

Commercial airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would (1) require circuitous routing; (2) require travel during unreasonable hours; (3) excessively prolong travel; (4) result in additional costs that would offset the transportation savings; or (5) offer accommodations not reasonably adequate for the traveler's medical needs. Instances of commercial airfare cost in excess of the basic least expensive unrestricted accommodations class must be justified and documented on a case by case basis.

[] Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences are allowable provided that (1) the costs are a direct result of the individual's travel for the Federal award; (2) the costs are consistent with the District's documented administrative guidelines for all entity travel; and (3) are only temporary during the travel period. Travel costs for dependents are unallowable, except for travel of a duration of six (6) months or more with prior approval of the Federal awarding agency.

[DRAFTING NOTE: This draft policy includes the Federal rules for commercial airfare and temporary dependent care costs. Based on State or local laws and policies, School Districts may decide that all temporary dependent care costs or commercial airfare costs in excess of the basic least expensive unrestricted accommodations class are unallowable under any circumstance.]

Travel payment and reimbursement provided from Federal funds must be authorized in advance and must be reasonable and consistent with the District's travel policy and administrative guidelines. For travel paid for with Federal funds, the travel authorization must include documentation that demonstrates that (1) the participation in the event by the individual traveling is necessary to the Federal award; and (2) the costs are reasonable and consistent with the District's travel policy.

All travel shall comply with the travel procedures and rates established in the administrative guidelines. All costs incurred with Federal funds must meet the cost allowability standards within Board Policy 6114.

To the extent that the District's policy does not establish the allowability of a particular type of travel cost, the rates and amounts established under 5 U.S.C. 5701-11, ("Travel and Subsistence Expenses; Mileage Allowances"), or by the Administrator of General Services, or by the President (or his/her designee), must apply to travel under Federal awards.

Applicable laws and regulations:
2 C.F.R. 200.474