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Vision, Strategic Planning & Implementation: Michigan Laws & Bidding Requirements

March 2023



Agenda

Bonds

Sinking Funds

Purchasing

Note: The following slides are not intended to be a comprehensive discussion of purchasing laws; you should consult legal counsel with questions regarding purchasing laws.



Bonds & Sinking Funds



Bonded Capital Projects

Initially restricted by the Revised School Code (MCL 380.1351 – 380.1372) -
CANNOT be used for:

- Repairs, maintenance, or maintenance agreements
- Supplies, salaries, service contracts, lease payments, installment purchase contracts
- Automobiles, trucks, or vans
- Portable classrooms purchased for temporary use
- Uniforms
- Textbooks
- Upgrades to an existing computer operating system or application software
- Computer training, computer consulting, or computer maintenance contracts



Bonds – Eligible Uses as it Relates to Tech

Constraints on eligible uses, governed by School code. Section 1351(a):
“...acquiring, installing or re-equipping school buildings for technology”

- Hardware and communication devices that transmit, receive or compute information for pupil instructional purposes
- The initial purchase of operating system software or customized application software, or both, accompanying the purchase of hardware and communication devices for pupil instructional purposes
- The costs of design and installation of the hardware, communication devices, and initial operating system software or customized application software for pupil instruction purposes



Bonds – Eligible Uses as it Relates to Tech

- **Software**
 - Operating software can be purchased with bond dollars if purchased with new hardware
 - “Customized” application software if purchased with new hardware
- **Technology designer fees are eligible but not consulting**
- **Cannot be used for:**
 - Supplies/consumables (e.g., projector bulbs)
 - Operational costs (e.g., salaries)
 - Training
 - Most software
 - Software/OS upgrades
 - Maintenance/Repairs



Bonds – Eligible Uses as it Relates to Tech

Additional Clarifications:

- All computer hardware, monitors, printers, operating system software, etc. that is not intended for pupil instructional purposes must be classified as equipment and included in the loose furnishing/equipment budget line on the project sheets.
- Other examples of equipment include telephone equipment, PA systems, security cameras, copiers, fax machines, office machines, etc.



Bonds - Considerations

- Bonds used for “equipment” purchases must be paid back within useful life:
 - Typically considered 5 years for technology equipment
 - 10 years for furnishings and equipment
 - Infrastructure purchases can be paid back over longer period
- Budgeting for bond must occur on a building by building basis
- Separate infrastructure, technology equipment and non-instructional hardware (FF&E)
- Communicate projects to community in general terms – e.g., end user devices, connectivity, presentation solutions



Bonds – Tracking Budget

- Expenditures must be tracked by building and by major category
 - Infrastructure
 - Technology Equipment
 - Non-Instructional Technology (FF&E)
- Best practices for tracking



Sinking Funds – Previous Eligible Use

- Considerations
 - For millage before 3/16/17
 - Shall not exceed 5 mills, 20 years
- Technology is limited to cabling
- No equipment or software



Sinking Funds – New Eligible Use

Considerations

- For millage on or after 3/16/17
- Shall not exceed 3 mills, 10 years

Technology – as defined in section 1351a

- Hardware and communication devices that transmit, receive, or compute information for pupil instructional purposes.
- The initial purchase of operating system software or customized application software, or both, accompanying the purchase of hardware and communication devices under subdivision (a).
- The costs of design and installation of the hardware, communication devices, and initial operating system software or customized application software authorized under this subsection.



Sinking Funds – New Eligible Use

Security Improvements

- Any capital improvement or purchase designed to act as deterrent to unauthorized entry of persons/items onto school premises or otherwise promote security
- Technology examples include: cameras, enhancements to entryways, a mobile telephone application providing communication with personnel on site and an emergency telephone call to a 9-1-1 center
- Does not include operational expenses related to a capital improvement or mobile phone application



Michigan Purchasing Laws



Procurement of Supplies, Materials and Equipment

Competitive bids required for purchases costing \$28,048 or more (FY22-23)

- School board must approve purchase
- Exceptions for cooperative/consortium bidding

Construction-related Project Requirements

- Must advertise once in local newspaper & post on SIGMA for at least 2 weeks
- Bid bond (5%), certified check or cash is required
- No late bids
- Requires sworn/notarized Familial Affidavit
- Requires Iran Economic Sanctions Act Certification



Procurement of Supplies, Materials and Equipment

Non-construction-related Project Requirements

- No advertisement requirement (check Board Policy)
- Does not require public bid opening (check Board Policy)
- Requires Iran Economic Sanctions Act Certification
- Optional: Familial affidavit, bid bond, performance bond

Performance & Payment Bonds

- Required if project is over \$50,000 and involves construction, repair or alteration of building
- Must be at least 25% of contract amount
- Districts may require this in any other type of contract



Procurement of Services

Technology services do not require competitive bidding

- Exception if privatizing non-instructional service with “unionized workforce” – Districts must allow the union to have the same opportunity to bid as other bidders
- Check with Board Policy

Requirements

- No advertisement requirement (check Board Policy)
- Does not require public bid opening (check Board Policy)
- Requires Iran Economic Sanctions Act Certification
- Optional: Familial affidavit, bid bond, performance bond



Bidding Strategies & Considerations



Considerations & Strategies

Considerations

- District purchasing policy
- Construction schedule
- eRate

Strategies

- Structure for flexibility
- Multi-year contract
- REMC or other competitive bidding option



Thank you.



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