

STATE BOARD MEETING DATE September 23, 2013

SUBJECT: Presentation, discussion and consideration to initiate the rulemaking process for rule R7-2-1002, regarding school district procurement.

SUBMITTED BY: Vince Yanez, Executive Director

MANAGEMENT TEAM REVIEW:

BACKGROUND INFORMATION:

A.R.S. § 15-213(A) requires the State Board of Education to adopt rules governing the procurement practices for school districts and charter schools. In part, these rules are required to specify the total cost of a procurement that is subject to invitations for bids. In 2013, the legislature amended A.R.S. § 41-2535, which states that the total cost of a procurement that is not subject to invitations for bids shall not exceed \$100,000.

This rule was last amended by the Board in April 2010, corresponding with the legislature's last change to the amount of the bid threshold.

BOARD ACTION REQUESTED: [] INFORMATION [X] ACTION/DESCRIBED BELOW:

That the Board to initiate the rulemaking process for rule R7-2-1002, regarding school district procurement.

ATTACHMENTS: YES [X] NO []

**ARTICLE 10. SCHOOL DISTRICT PROCUREMENT
IN GENERAL**

R7-2-1002. Applicability

- A. This Article applies to every expenditure of public monies, including federal assistance monies, by a school district as specified in A.R.S. § 15-213(A) for the procurement of all construction, materials and services when the total procurement cost exceeds ~~\$50,000~~ \$100,000. If procurement involves the expenditure of federal assistance or contract monies, the school district shall comply with federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in this Article. This Article does not apply to agreements pursuant to A.R.S. § 15-789 or grants or contracts between governing boards, except as provided in Sections R7-2-1191 through R7-2-1195. This Article also applies to the disposal of school district materials regardless of value. Nothing in this Article shall prevent any governing board from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement. Procurements for amounts not exceeding ~~\$50,000~~ \$100,000 shall comply with guidelines prescribed by the Auditor General in the Uniform System of Financial Records pursuant to A.R.S. § 15-271(C).
- B. The provisions of this Article are not applicable to contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial or administrative proceeding in which the school district is or may become a party.
- C. Agreements negotiated by legal counsel representing the school district in settlement of litigation or threatened litigation are exempt from the provisions of this Article.
- D. Unless displaced by the particular provisions of this Article, the principles of law and equity, including the Uniform Commercial Code of this state, the common law of contracts as applied in this state and law relative to agency, fraud, misrepresentation, duress, coercion, and mistake supplement the provisions of this Article.
- E. Expenditures from student activity monies as defined in A.R.S. § 15-1121, if no district funds are involved, are exempt from this Article.