# Board of Education
## Agenda Abstract

**Meeting Date:** 10.8.2020  
**Agenda Type:** Work Session  
**Agenda Item #:** 3a

**Subject:** CHCCS Financial Report

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<tr>
<th>Division:</th>
<th>Superintendent</th>
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| Person Responsible: | Jim Causby, Interim Superintendent  
Ken Soo, Board Attorney |

**PURPOSE:** Review and Discussion

**BACKGROUND:** Mr. Kerry Crutchfield and Dr. Don Martin were engaged by the Chapel-Hill Carrboro City Schools’ Board of Education to complete a financial review of outside vendor contracts. The consultants were asked to examine contracts over the past five years to determine whether state law and School Board policy regarding contracting had been followed and to make recommendations for improvement.

**FINANCIAL IMPACT:**

**PERSONNEL IMPACT:**

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<th>RECOMMENDATION:</th>
<th>Review and discuss report</th>
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**Previous Work Session** | No | Date |
| Previous Discussion and Action | No | Date |

**Attachment(s):** CHCCS Financial Report
Introduction

Mr. Kerry Crutchfield and Dr. Don Martin were engaged by the Chapel-Hill Carrboro City Schools’ Board of Education to complete a financial review of outside vendor contracts. The consultants were asked to examine contracts over the past five years to determine whether state law and School Board policy regarding contracting had been followed and to make recommendations for improvement. Dr. Martin reviewed the Chapel-Hill Carrboro City Schools’ policy manual in order to understand the district’s policies and guidelines governing outside vendor contracts. He then spoke individually with 26 central office staff regarding their understanding of that process. Mr. Crutchfield worked with the Business and Finance Division staff and reviewed contract and purchase transactions for the previous five years to determine compliance with laws, Board Policies, and best practices. After working independently, the consultants discussed their individual findings. The report summarizes all findings and is followed by a discussion of recommendations for improvement that includes both operational practices and policy changes.

The consultants want to express appreciation to all of those interviewed for spending time exploring their experience managing outside vendor contracts and answering clarifying questions. Special appreciation is expressed to the finance office staff who spent many hours locating records for review. It is important to acknowledge that this report was prepared while staff were busy preparing for the most difficult school opening ever! Everyone interviewed was very candid and helpful. The consultants were impressed with the overall quality, knowledge, and commitment to the school district that was evidenced by those staff members who provided information for this report. The Chapel-Hill Carrboro City Schools’ Board of Education is fortunate to have such excellent school leaders serving its citizens.

Purchasing and Contracting Best Practices

Best practices in North Carolina school district purchasing and contracting start with good budget preparation processes, procedures, and documentation. The School Budget and Fiscal Control Act clearly defines the positive internal controls provided by budgeting processes and requires the Finance Officer to pre-audit every obligation and expenditure against the Board-approved annual budget. Quoting from General Statute 115C-441:

“Budgetary accounting for appropriations. (a) Incurring Obligations. – Except as set forth below, no obligation may be incurred by a local school administrative unit unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. (a1) Preaudit Requirement. – If an obligation is reduced to a written contract or written agreement requiring the payment of money, or is evidenced by a purchase order for supplies and materials, the
written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with subsection (a) of this section. The certificate, which shall be signed by the finance officer, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act. ________________________________ (Date) ______________________________________________________ (Signature of finance officer)"

(a2) Failure to Preaudit. – An obligation incurred in violation of subsection (a) or (a1) of this section is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this section, in accordance with any rules adopted by the Local Government Commission. (b) When a bill, invoice, or other claim against a local school administrative unit is presented, the finance officer shall either approve or disapprove the necessary disbursement. The finance officer may approve the claim only if all of the following apply: (1) The amount claimed is determined to be payable. (2) The budget resolution includes an appropriation authorizing the expenditure. (3) Either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed. A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the board of education. The finance officer shall establish procedures to assure compliance with this subsection, in accordance with any rules adopted by the Local Government Commission."

The district’s financial software, if set up correctly, handles the second half of subsection (a) requirements (an unencumbered balance) automatically, and many school district officials get lured into a false sense of security by the software’s checks and balances. The first half of subsection (a) is equally important (inclusion in the budget resolution). The clear intent is that the Finance Officer is to be a gatekeeper, ensuring that school district budget managers are spending funds for things and services that were included in the Board-approved Budget Resolution. Since the Budget Resolution itself does not reflect planned expenditures at a level of detail necessary to accomplish this part of the pre-audit, the clear implication is that the Finance Officer must have access to budget information with enough detail to perform the required gatekeeping over obligations and expenditures.

Based on discussions with dedicated CHCCS financial and administrative staff members, it is obvious that budget development processes in recent years have not generated enough details to allow the Finance Officer to perform the necessary gatekeeping pre-audit responsibilities. Best practices in school district budget preparation require budget managers to request funding to the superintendent with documented details and the superintendent to recommend funding to the Board with documented details supporting that recommendation. Since budget preparation processes must begin months before the start of the fiscal year, this requires budget managers to plan for needed contracts and purchases well in advance of execution and helps the superintendent know well in advance which contracts and purchases will need Board approval.

Many North Carolina school districts, including the consultants’ former district Winston-Salem/Forsyth County Schools, have developed formal electronic processes for requesting,
analyzing, and documenting budget request details and should be willing to share those processes. Decentralizing budget management in school districts the size of CHCCS is efficient and should be continued, but formalizing each budget manager’s expected purchases and contracts during the budgeting process is necessary to allow the Finance Officer to carry out his/her legal gatekeeping duties.

CHCCS also decentralizes purchasing and contracting responsibilities to various budget managers, including the responsibilities to document those obligations and any bidding or quotes necessary for those obligations. While this decentralization is efficient it requires budget managers to be knowledgeable of legal and Board requirements and the Finance Officer (or designee) to provide routine oversight for all transactions and their documentation. We are pleased to hear that some central office budget managers have been sent to the Institute of Government’s Purchasing and Contracting training sessions. The consultants recommend that all existing and future budget managers initiating purchases and/or contracts participate in this training.

Specific financial best practices in terms of contracting include:

- Written agreements/contracts for all acquired services
- Review of the contract document by legal counsel for form and content or use of a standard form contract pre-approved for form and content by legal counsel
- Signatures and approval, if necessary, before expenditures are made
- Signatures of the CHCCS budget manager and a responsible vendor representative
- Signature of the Board Chair after Board approval
- Clear specification of the total amount due under the contract or an amount not to exceed
- Amendment(s) to the contract if the contract amount or amount not to exceed needs to be exceeded
- Pre-audit certification from the Finance Officer on the contract document or purchase order
- Encumbering the entire obligation (issuing a purchase order) for contracts that require multiple payments and/or that have a “not to exceed” amount
- For multi-year contracts, encumbering (issuing a purchase order) at the start of each fiscal year for the total contracted amount due that year
- Keeping the original finalized copy in Finance (preferably digitized) with the original hardcopy or a facsimile copy filed by the budget manager
- For all similar services provided by a single vendor, consolidating all contract obligations into a single contract for each fiscal year
- Retaining contract documents in accordance with State records retention requirements (in most cases for at least 3 years; longer for certain types of contracts or when funded with federal grant dollars)
Although not required by law, when competition is available, informal documented proposals/quotes above a certain dollar threshold and formal documented proposals/bidding (Requests for Proposals) above a higher dollar threshold

Best practices when purchasing goods and equipment include:

- Issuing purchase orders in all cases (blanket/open purchase orders may be used for frequent purchases of small dollar items in areas such as Maintenance and Transportation)
- Pre-auditing all purchase orders in Finance, including verification of inclusion of what is being ordered in the original budget, as amended through that date
- Verification in Finance that the funding source and budget code are appropriate for what is being ordered
- Verification in Finance that informal or formal bidding, as required by law, has been documented and approved, if necessary, or that items being purchased are on a valid state contract – for purchases of items not on valid state contracts, informal bidding (documentation of at least two quotes/bids) is required by law for purchase dollar values between $30,000 and $90,000 and for purchase dollar values above $90,000 formal bidding is required by law
- When purchasing large quantities from a state contract vendor, attempting to negotiate a price with that vendor lower than the state contract price
- Verification in Finance that multiple purchase orders are not being issued for a single purchase to avoid bidding requirements
- When the invoice is received, comparison in Finance to the purchase order, receipt of a verification of receipt of goods in acceptable condition, and another pre-audit to determine availability of budgeted funds
- Although not required by law for purchases under $30,000, when competition is available, informal documented proposals/quotes above a certain dollar threshold less than $30,000 would help ensure accountability over public funds (based on interviews with budget managers and review of transactions, some of that is happening currently in CHCCS)
- Finance Office staff providing training (upon initial hiring and updated as needed) for all budget managers and their administrative assistants, including principals and their financial secretaries/bookkeepers, on purchasing (and contracting) laws, policies, and required district practices and processes

Processes for review of purchasing and contracting

From finance department staff members, Mr. Crutchfield asked for the following data:

- For school year 2019-20, a copy of all expenditures from all sources of funds, which was received as requested
For school years 2018-19, 2017-18, 2016-17, and 2015-16, a copy of all contracted services expenditures for each year from all sources of funds, which was received as requested.

For a sample of over 100 purchase and contract transactions for 2018-19, including all contract transactions over $30,000 (and some of less than that amount), copies of purchase orders, invoices, contract documents, and bid/quote documents – if these documents could be found, they were provided (see Findings section).

For a sample of 28 contract transactions (many of the larger dollar contract transactions for these years were with the same vendors and for the same purposes as transactions included for testing from the 2019-20 school year) for the previous four years, copies of purchase orders, invoices, and contract documents – if they have been found by the date of this report, they were provided (see Findings section).

For all these transactions, Mr. Crutchfield tested for compliance with laws, Board Policies, and best practices as described in the previous section. Mr. Crutchfield wants to express sincere gratitude to the dedicated staff in Finance for the extra time and attention necessary to provide this data during an extremely busy period of time dealing with the close-out of one fiscal year and the start of a new fiscal year.

**Findings from Review of Records**

The findings below are in order of the largest number of exceptions to the smallest number of exceptions, which is not necessarily the order of most serious to least serious. As expressed in the interview sections that follow, the consultants both found clear lines of delineation for “before” the exceptions came to the attention of the Board and “after” the exceptions came to the attention of the Board. During the “after” time period, Mr. Crutchfield observed sincere attempts to rectify and correct all serious shortcomings and compliance lapses.

While examining Board minutes for Board approvals, the before and after changes became even more clear and delineated. For the 12 months January through December 2019, Mr. Crutchfield noted only five agenda items requesting approval of contracts and large dollar purchases. For the six months January through June 2020, Mr. Crutchfield noted 28 agenda items requesting approval of contracts and large dollar purchases. The minutes for calendar year 2018 are similar to 2019 in the small number of agenda items requesting approval of contracts and large dollar purchases. Based on the review of five years of expenditures and with the current Board policies in place, Mr. Crutchfield estimates that the Board should routinely deal with 25-35 agenda items annually requesting approval of contracts and large dollar purchases. These agenda items will be more concentrated in the April through June timeframe.

In the numbers below, Mr. Crutchfield qualifies each with “at least”, since the staff in Finance are still attempting to locate documents, especially for years prior to 2019-20 when digitizing of such documents had not been implemented. Additionally, the numbers below are not mutually
exclusive – a number of transactions are included in multiple categories since there were multiple exceptions noted.

1. For at least 18 contracted services payments sampled, including the ones to the vendor that first alerted the Board to the exceptions, no contract document could be located – no matter what size the payment, all contracted services should be supported by a written contract or agreement – all central office departments seem to have had some issues with obtaining/retaining contract copies. Facilities, MIS and HR have the most examples of lack of documentation (it should be noted that Facilities has the most transactions requiring contracts, and multiple examples of appropriate documentation in that department were found)

2. For at least 15 contracted services and purchasing payments, the total payments exceeded the $90,000 threshold that Board Policy states required Board approval and no such approval could be found – all such contracts/purchases were initiated prior to the time when exceptions came to the attention of the Board; some date back many years

3. For at least four contracts that included a “not to exceed” amount, the total payments to the vendor under the contract exceeded the “not to exceed” amount without getting an amended contract – if all contracts were encumbered having a purchase order issued for the maximum amount due under the contract, the financial software would automatically “remind” district administrators when an amended contract was required and prevent overpayments of contracted amounts

4. For at least three contracts that were documented and had appropriate signatures and a pre-audit signature, the contract did not evidence a total amount of the contract or a total “not to exceed.” It is impossible to accomplish the pre-audit for a contract without knowing a total amount or the maximum total amount due under the contract, and no pre-audit signature should ever be on such a contract. The North Carolina Association of School Business Officials (NCASBO) hosts training classes for all school district finance office staff members that should help CHCCS finance staff understand the laws and regulations over North Carolina school district finance.

5. For at least three contracts with signatures of a CHCCS budget manager and a vendor representative, two of which were approved by the Board, there was no pre-audit signature. If this had been discovered during the external audit, this would have been a violation of law and an audit exception. If a purchase order had been issued for the contracted amount, the pre-audit almost certainly would have been accomplished. The Board Chair should insist on the Finance Officer’s pre-audit signature on the contract before signing indicating Board approval.

6. For at least two contracts that the Board minutes indicated had been approved by the Board, there was no signature of the Board Chair on the contract.
7. For at least two contracts with Board approval, some payments were made to the vendor before the date of Board approval – these are clear examples of the behavior “before” the improvements that were made afterwards.

8. For at least two purchases exceeding $30,000, no evidence of informal bids or quotes could be found – if noted by the external auditor, these would have been violations of law – the preferable documentation would be bids or quotes in writing signed by a vendor representative and the CHCCS budget manager; if bids/quotes were obtained verbally (by phone or in person), they should be documented, signed, and dated by the budget manager.

9. For at least one purchase exceeding $30,000, only one quote was documented – this would be a law violation unless it was noted on the quote or purchase order that this was a “sole source” provider

10. For at least one contract, it appears (but cannot be proven) that similar services to be provided by a single vendor were divided into two contracts to avoid the $90,000 Board approval threshold

Mr. Crutchfield has the details as to which vendors’ payments are included in each of the above categories and will discuss those details with Jonathan Scott.

**Other findings and recommendations based on the review of financial records**

The following discussion identifies other findings with specific recommendations that resulted from the review of financial records. After the initial scope of work for this financial review was determined the Board asked the consultants to specifically focus on the Chapel Hill High School construction project and resulting change orders. Finding and Recommendation #1 reviews the Chapel Hill Change Order examination; Finding and Recommendation #2 examines a loan agreement in 2017 to pay for transportation equipment; Finding and Recommendation #3 examines the 2018 purchase and financing of Voice Over IP (VOIP) services; and Finding and Recommendation #4 addresses staffing issues in the Business and Finance Division.

1. Policy compliance for the Chapel Hill High School (CHHS) capital project. For all the reasons below, the CHHS capital project was the perfect storm for potential lack of compliance with Board Policy:
   
   a. The decision at the outset to use Construction Management at Risk which, when combined with the factors below, seems to have put most of the risk of increased costs on the school district;
   
   b. The approval of Change Order #001 November 1, 2018 including $1.1 million of “contingency” funding, which could have led staff members to assume further approvals of specific change orders were not necessary;
   
   c. The significantly expanded scope of the project, which undoubtedly led to unexpected additional costs; and
   
   d. The time pressures to complete the expanded scope of work.
The consultants recommend in the future that the Board avoid approving change orders for contingencies. If the Board wants to grant staff some flexibility within a construction project, the original contract approval could contain a percentage for contingencies (e.g. 5%) so that large numbers of small change orders would not be necessary. A recommendation later in the report to add a standing Board Committee for Buildings and Grounds should enhance staff/Board communication and streamline Board approval of required action items.

State law 115C-521(h) requires that each Board of Education have a policy governing change orders to any construction project for which a contract has been awarded. Policy 9030 dictates the change order process and Section B.1.b. authorizes the superintendent or designee to approve change orders to construction contracts in amounts up to $100,000. Change orders more than $100,000 must be reviewed by the Board attorney and approved in advance by the Board of Education. At least temporarily, the consultants recommend that the Board lower the current $100,000 threshold requiring Board approval to $50,000.

After reviewing the documentation for Resolution #2 and Resolution #3 presented to the Board at their July 23, 2020 meeting, the consultants commend the current staff for a thorough and transparent job of researching and presenting the change orders that had been approved and the change orders that still needed Board approval. The consultants recommend that the Board approve Resolution #3 at their earliest opportunity. Even though after-the-fact, the approvals are important.

2. A loan agreement with Grapeland State Bank entered into on March 23, 2017 for $214,029.11 for Transportation Department equipment was examined as part of the above testing. While all paperwork and Board approval seemed to be in order, best practices would have been to formally bid the financing of this loan. The stated interest rate on this loan is 6.5% which, based on our experience with governmental entity loans, is excessive now and would have been excessive in 2017. Additionally, this transaction could be considered what under the law is called a “Continuing Contract for Capital Outlay”, which would have required County Commissioner approval. The interim Finance Officer, Jonathan Scott, has indicated a desire to ask the Board for approval to pay off the remainder of this loan, and we strongly recommend that action.

3. Another sample selection was a five-year financing agreement dated in April 2018 for Voice Over IP (VOIP) services, discovered independently recently by Patrick Abele and Jonathan Scott. The agreement was with NWN Corporation, with the loan payments subsequently assigned to NCAPITAL. The agreement calls for monthly payments of $17,819.45 for five years and there is no indication how much of this amount is interest.
The assignment of the payments to a finance company is clear indication that the payments include interest. This contract is included in the findings above as one that should have received Board approval but did not. It appears that this contract does not include equipment to be owned by the district, so it is unlikely that it would be considered a Continuing Contract for Capital Outlay that should have been approved by the County Commissioners. This contract, however, should be investigated further to ensure that no equipment is included, to determine the rate of financing, and potentially to determine if the financing agreement can be or should be paid in full as soon as possible.

4. If the Board agrees to implement the purchasing and contracting best practices described above, Business and Financial Services will need to fill the Purchasing Agent position vacated due to retirement on January 1. Additionally, when the Finance Officer position is filled on a permanent basis, the consultants recommend that the Director of Business and Financial Services position, vacated when Jonathan Scott was named interim Finance Officer, be filled to provide additional purchasing and contracting oversight.

Summary of central office staff interviews

A list of all staff who were interviewed by Dr. Martin is provided in Appendix A and the guiding interview questions are provided in Appendix B. The 26 central office staff interviewed included four from the Superintendent’s office, three from the Human Resources Division, seven from the Instructional Services division, seven from the Support Services Division, and five from the Student Services Division. (Jonathan Scott is the 27th name on the interviewed staff list in Appendix A but was not interviewed by Dr. Martin.) The central office staff interviewed had varying degrees of involvement in selecting vendors and managing contracts. A few of those interviewed indicated that they did not manage any contracts.

In describing how contracts were handled in the Chapel-Hill Carrboro City Schools, one staff member referred to processes that were used “before” and “after.” He was referring to before the recent publicity surrounding the lack of Board of Education approval of a contract for services that exceeded $90,000. Based on the interviews conducted and the review of financial records, purchasing practices used “before,” were as follows: when the district budget was approved by the Board of Education a single line item in the budget for instructional software, for example, would include sufficient funds to purchase software from a number of vendors. Even though some of the individual vendor contracts exceeded the $90,000 threshold for supplies, material, or equipment and required School Board approval according to G.S. 143-129 and local board Policy 6430, individual contracts were not approved by the Board. It appears that the thinking “before” was that if the Board approved a line item when the annual budget was adopted, then no additional Board action was required as long as the total amount of funds in a particular line item were not exceeded.
It is also clear that even if staff were aware that supply, material, or equipment purchases in excess of $90,000 should be competitively bid and approved by the Board of Education, staff would enter into contracts with a vendor for less than $90,000 unaware that other central office staff or staff in the schools were making purchases from the same vendor – hence the aggregate amount of purchases with that one vendor exceeded $90,000. For example, Instructional Services had contracts with Reading Fundations (Wilson) and the American Reading Company. The Title 1 program also had contracts with both companies. The combined value of the contracts exceeded $90,000 and were not approved by the Board of Education. Several staff members indicated that they wished that they could “see” on their budget software the vendor contract totals for the district.

Past contracts between the district and AVID (Advancement Via Individual Determination) provide a similar example. Staff members have shared student data with the Board of Education associated with the results of the AVID program. Even though Board members have been well aware of the AVID program, the Board has never approved the annual contract with AVID which exceeded $90,000. The AVID contract is comprised of three different components: a membership fee, a summer staff development experience, and a dollar amount provided to each school to purchase student planners, posters, or rewards. The three bills arrive at different times during the year and the cost of none of these individual components exceeds $90,000, but the total amount spent with AVID does.

Similarly, when the annual district budget was approved, the Board of Education would approve a listing of capital projects to complete during the year. Some of these projects might exceed $300,000 (the limit imposed in Policy 9120 Section C which is less than the $500,000 bidding threshold required by G.S. 143-129). When a large capital project that was included in the total annual budget that year was bid, the Board of Education did not approve the final contract amount. Interviews would suggest that all construction contracts in excess of $300,000 have been bid, but most often not approved by the Board of Education – Mr. Crutchfield found several examples of this in his transactions testing.

Interviews with staff also indicated confusion over outside vendor contracts for amounts less than $90,000 and capital projects less than $300,000. Policy 9120 Section D makes it clear that informal bids will be obtained for construction and repair contracts between $30,000 and $300,000. However, state law, G.S 143-131 (a) and Policy 6430 requires that informal bids be secured for the purchase of apparatus, supplies, materials, or equipment. Policy 6480 states that the Board of Education generally does not require competitive bidding for the purchase of services; “however contracts for services will be made under conditions which foster competition among potential providers when feasible and after careful pricing.” Confusion exists when a vendor offers both services and accompanying apparatus, equipment, and supplies. Recommendation #5 offers a way to handle contracts that offer services and materials.
One staff member interviewed, described in detail the process she used for selecting a vendor for a recent instructional services contract valued at less than $90,000. She identified possible vendors and sent them a request for proposals (RFP). She received three responses that outlined a scope of work that each vendor promised to deliver. A committee reviewed all three responses and the proposal that best matched the scope of work outlined in the RFP was selected. Authorization from the superintendent was received (since this person reported to the superintendent), and a draft contract was sent to the School Board attorney. The executed contract was sent to Business and Finance Division for the issuance of purchase orders. The staff member kept her own spreadsheet to track expenditures during the execution of the contract. The consultants agree that this process clearly “fostered competition among potential providers” and should be utilized in all outside service vendor contracts. In Recommendation #6, the consultants suggest a similar process to the one just outlined.

The Support Services Division contracts with many vendors. Many small purchases are made to maintain buildings and complete repairs. Operations managers secure open purchase orders for amounts as low as $2,000 for general repair parts and up to $90,000 for expensive HVAC parts. Any purchase that is likely to exceed $25,000 is reviewed with the assistant superintendent and at least three vendors are called. If there are two vendors who can respond, the lowest responsible vendor is selected. When a single purchase with a vendor with an open purchase order results in spending more than $90,000, the contract is brought to the Board for approval. If the amount of the invoice that caused the $90,000 threshold to be exceeded is for example a $350 valve or the cost of cutting down one more tree, then the purchase is delayed until the next regularly scheduled Board of Education meeting. In the case of the valve that is needed immediately or the tree that must be cut down as soon as possible, this delay is problematic. All contracts in the operations area are signed by the Assistant superintendent of Operations. Recommendations #7 and #8 relate to purchases by the operations division between $30,000 and $300,000 and suggest another way to manage purchases with open purchase order vendors that may approach the $90,000 bidding threshold.

One question asked each staff member concerned whether the amounts spent on all contracts were contemplated during the budget building process and then later approved when the Board of Education adopted the district budget for the next fiscal year. Generally, the answer to that question was “yes” – the vendor purchases were anticipated when the budget was assembled. However, in one case, the budget line items were simply carried forward from the previous year without any revision. This practice allows budget contingencies (or deficits) to be carried forward. Incorporating the actual amount spent in any budget code the previous year provides a more accurate budget for the next year. As discussed in the first section of this report, Purchasing and Contracting Best Practices, best practices in school district budget preparation require budget managers to request funding to the superintendent with documented details so that the superintendent’s recommended budget request is supported with sufficient details.
After the publicity and subsequent School Board discussion surrounding purchasing and contracting with outside vendors, school district staff responded quickly and adjusted standard operating procedures. The Business and Finance Division has made staff aware of proper purchasing guidelines and developed oversight procedures to prevent expenditures more than $90,000 with any vendor that has not been approved by the Board of Education. Contracts with The American Reading Company and AVID were highlighted above as examples where contracts that exceeded $90,000 were not approved by the Board. New contracts with both vendors have recently been approved by the Board. The Wilson Foundations contract example did not require approval in FY 20 since the materials that will be purchased will be less than $90,000. However, staff interviews suggested to the consultants that an on-going training program should be conducted with all budget managers and their assistants. Interviews also made it clear that some contracts have been historically managed in the Business and Finance Division. All contracts need to be reviewed by the “owners” of those contracts. Recommendation #9 address this issue.

**Recommendations:**

5. Whenever staff members are considering purchases with vendors who offer both services and supplies, material, or equipment, the consultants recommend that the contract no longer be considered a contract for services and follow the provisions of Policy 6430. In such a case, a vendor could parse out his or her services into one contract and the district follow standard purchasing guidelines for the related supplies, materials, and equipment.

6. As stated earlier, budget managers should identify in the budget process the need for all services contracts, and the consultants recommend following a process for service contracts of over a certain dollar threshold (possibly $10,000) that was outlined by a staff member during an interview. Namely, when services from a particular type of vendor are desired, staff members should develop a request for proposals (RFP) that specifies the desired services, the service delivery timeline, and includes the criteria for selecting the successful contractor. The RFP should be distributed to as many vendors as possible (the NC Department of Public Instruction and other school district colleagues can help identify potential vendors). Hopefully, multiple responses will be received, and a selection committee can convene to evaluate the vendor responses with the selection criteria. The proposal that best matches the scope of work outlined in the RFP should be selected and the proposed contract amount compared to the available funds budgeted. Assuming that sufficient funds are available, the staff member would receive approval from his or her supervisor and then, a draft contract would be sent to the School Board attorney. In all cases the executed contract should be sent to the Business and Finance Division for the issuance of a purchase order and the required pre-audit. A copy of the RFP, the proposals, and any scoring sheets from the committee should be maintained on file (either on paper or in an electronic format). If the service contract
exceeds $90,000, then the proposed contract should be submitted to the Board of Education for approval.

7. In the operations area, the consultants recommend the current practice for purchases above $25,000 (the assistant superintendent of operation’s threshold) for all purchases between $25,000 and $90,000: identify three vendors who can provide the supplies, material, or equipment; receive informal quotes from at least two vendors (can be collected by phone or e-mail); select the lowest responsible quotation; document the request and response; and then purchase the supplies, materials, or equipment. In the past, total expenditures with some vendors on open (blanket) purchase order limits have exceeded $90,000 (e.g., with HVAC and plumbing equipment, and tree removal work). As a part of the annual budget process, we recommend identifying these needs, bidding the anticipated purchases, selecting one or more vendors, contracting for a realistic “not to exceed” and getting Board approval prior to July 1. As described in the best practices section, the contract should be encumbered in early July so that the software will prompt the budget manager and the finance officer if/when the contracted budget amount needs to be exceeded and an amended contract is required.

8. If construction work is expected to cost between $30,000 and $300,000 then the informal bid process outlined in Recommendation #7 should be used: identify three vendors who can complete the construction work; receive informal quotes from at least two vendors (can be collected by phone or e-mail), select the lowest responsible quotation, document the request and response, and then construct the project. (G.S. 133-1.1 requires that architectural and/or engineering (A&E) design services be used on certain projects – these requirements are reflected in the recommended policy changes for Policy 9030 below). If the construction project is expected to cost in excess of $300,000, then bid specifications must be prepared by an architect or engineer, with the project formally advertised, and bids solicited. (A pre-bid meeting should be conducted for large complicated projects.) Once the successful bidder is identified, the contract should go to the school board attorney and then to the Board for approval.

9. As mentioned earlier, staff interviews indicated they had been told that some long existing contracts had been managed by the Business and Finance Division. For example, in the Human Resources (HR) Division, the applicant tracking system, Front Line, is used exclusively by HR staff but none of those interviewed were aware of the length of the contract, whether there was an annual maintenance fee, or were other similar products reviewed when Front Line was selected. All those interviewed were aware that the Department of Public Instruction provided a free application support program called Teacher Match. HR staff did not review any paperwork regarding annual maintenance fees (assuming that there are some) or the term of the contract. The
Human Resources Division has recently prepared an RFP, advertised, and identified a new vendor to help recruit School Psychologists that was approved by the Board.

The district also has contracts with Global Teaching Partners, Educational Partners International, and Participate to employ teachers from other countries who typically teach in foreign language and immersion programs. The HR department staff were unaware of any of the details surrounding these contracts. The Department of Public Instruction allows the average state teaching salary to be used by local districts to pay the teacher salaries (typically without most or all matching benefits) as well as the contract fees to the companies that provide international teachers. Since most international teachers are young, the average salary cost reimbursement provided by the state is usually more than all the costs associated with contract amount per teacher paid to the vendor. It is important for the district to know what this cost differential is for each vendor.

Based on Mr. Crutchfield’s review of transaction documentation, it appears that no one in the district was managing these contracts since no contract documentation could be found for any of the longstanding contracts described above. Since CHCCS typically delegates contract management to budget managers, the HR Department should be assigned responsibility for management of all HR-related contracts and utilize all of the recommendations within this report.

When it was shared by an HR staff member that a RFP for the temporary employment agency contract was in progress, the consultant suggested that the Board consider broadening the scope of the RFP to include hiring most classified positions for a temporary employment period. Nearly ten years ago the Winston-Salem/Forsyth County Schools established a trial employment period for most newly hired classified employees. The district supplied the job requirements for various classified positions, such as teacher assistants, data managers and administrative assistants, and prepared a RFP to select a temporary employment agency to find prospective candidates. When classified employee vacancies occurred, the temporary employment agency supplied candidates to hiring managers (which could be the principal for a school level classified position). Candidates who were selected remained employees of the temporary employment agency for the trial employment period and then the district decided whether to permanently hire them. During the trial employment period the school district provided a stipend to the temporary agency to provide the employee with basic health insurance. During the first year, the hiring managers found that the candidates provided by the temporary agency were generally better qualified than when the district had done their own advertising and that the hiring process was shorter. In the first year, the temporary employment period was 90 days and the district saved $100,000 in employee benefits. Today with retirement matching nearly twice the
amount it was 10 years ago, the savings would nearly double. Furthermore, any new hire who resigns after a couple of weeks saves the district the time that it takes to complete the induction process, enroll them in all benefit programs, and then undo it. In the second year, the Winston-Salem/Forsyth County Schools extended the trial employment period to 180 days to increase cost savings.

10. During the study, Jonathan Scott informed the consultants that he was having difficulty with some (primarily software) vendors not being willing to use the CHCCS legally approved contract form. In those cases, any significant contract should be reviewed for form and content by legal counsel, which adds extra time and expense to the contracting process. The consultants’ former school district has in-house legal counsel, the duties of which include approving every contract for form and content, even contracts on the district-approved forms, since there could be missing, incomplete, or misleading information in the sections that require filling in the blanks. That district also finds it convenient and cost-effective to have in-house counsel to quickly address questions in the areas of human resources and exceptional children, and to provide frequent training to all district administrators. The consultants recommend that the Board consider employing in-house legal counsel to assist the Board in all these matters.

Policy Suggestions

In preparing this report, the consultants reviewed the relevant policies of the Chapel-Hill Carrboro City School district. Clearly, one of the most important duties of the Board is to establish policies that determine goals, priorities, expectations, and guidelines for the everyday operation of the school system. The suggested policy changes will be divided into two categories – recommended changes for purchasing, contracting, and construction change orders, and one policy recommendation regarding school board committees. In the introductory paragraph for each policy recommendation the policy number is highlighted in blue to indicate a new policy recommendation is beginning.

Recommended policy changes regarding purchasing, contracts, and construction change orders.

1. **Policy 6430** is a comprehensive policy that outlines the requirements for purchasing equipment, materials, and supplies. Only minor changes are recommended that relate to rejecting bids and allowing the superintendent to approve an exception on short term contracts that use open purchase orders. Additions to the policy are underlined and deletions are indicated with a strike through.

Policy Code: 6430 State Purchasing Requirements for Equipment, Materials, and Supplier

All purchases of apparatus, supplies, materials, and equipment will be made in accordance with all applicable laws and regulations, including Article 8 of Chapter 143 and Articles 6E and 6G of Chapter 147 of the North Carolina General Statutes, board policy, and school system purchasing procedures. Purchasing contracts subject to the E-Verify requirement will contain a provision
stating that the contractor and contractor’s subcontractors must comply with the requirements of G.S. Chapter 64, Article 2. Purchases using federal funds must also be made in accordance with all applicable requirements of federal law and regulation, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance”) issued by the U.S. Office of Budget and Management. (See also policy 8305, Federal Grant Administration.) All employees involved in purchasing must be familiar with applicable requirements.

The purchasing officer shall ensure that written specifications for desired products are descriptive and clear and incorporate the quality requirements and service needs of the school system. There is no minimum number of bids, proposals, or quotes required for the purchase of apparatus, supplies, materials, and equipment (whether formally or informally bid); however, the board encourages the purchasing officer to obtain at least two bids, proposals, or quotes when feasible.

Except as otherwise required by law or specified by the board, the board delegates to the superintendent the authority to award contracts for the purchase of apparatus, supplies, materials, and equipment involving amounts up to the amount specified in policy 6420, Contracts with the Board. Any purchases or contracts involving expenditures greater than this amount must be approved by the board. The purchasing officer and any additional staff deemed appropriate by the superintendent shall review submissions of bids, proposals, or quotes to determine if they are responsive to the system’s specifications and make recommendations to the superintendent. The superintendent may award the contract based upon such recommendations or make a recommendation to the board for award of the contract by the board.

Apparatus, supplies, materials, and equipment must be purchased in accordance with the following requirements.

A. FORMAL BIDS (EQUAL TO OR MORE THAN $90,000)

The purchase of apparatus, supplies, materials, or equipment for expenditures equal to or more than $90,000 must be secured through the competitive bid process governed by G.S. 143-129. The superintendent, in consultation with the purchasing officer, is authorized to determine the best method for formally bidding a product or, as appropriate, utilizing one of the exceptions to formal bidding as provided below in Section E. The purchasing officer shall oversee the use of any purchasing method and ensure that all state requirements are met, including advertisement, sealed bids, maintaining records, and public opening of bids. The board authorizes the use of newspaper advertisement, electronic advertisement, or both for formal bids; however, the superintendent has the authority to determine which method will be used for a specific purchase or categories of purchases.
Awards will be made to the lowest responsible bidder(s) whose bid or proposal meets the requirements and criteria set forth by the school system, taking into consideration quality, performance, and the time specified in the proposal for the performance of the contract. To be eligible for an award of a contract subject to G.S. 143-129, the contractor and its subcontractors, if any, must demonstrate compliance with all applicable provisions of G.S. Chapter 64, Article 2, including the responsibility to use E-Verify. All contracts awarded must be in writing. The Board may reject a formal bid submitted by a supplier or contractor whose performance on a previous contract was found to be unsatisfactory by the superintendent or the board.

The board permits the use of the following processes for contracts that require formal bidding.

1. Competitive Sealed Bids

A competitive sealed bid (or invitation to bid) may be used to request the cost of particular goods by providing detailed specifications in advance.

2. Reverse Auction

Pursuant to G.S. 143-129.9(a)(1), the school system may use reverse auctions as an alternative to sealed bid procedures. For purposes of this policy, "reverse auction" means a real-time purchasing process in which bidders compete to provide goods at the lowest selling price in an open and interactive environment. The superintendent, in consultation with the purchasing officer, shall determine whether reverse auctions are appropriate for a specific purchase or category of purchases. To conduct a reverse auction, the purchase officer may use a third party, may use the state's electronic procurement system, or, if appropriate equipment is available, may conduct the auction using school system equipment.

3. Exceptions to Formal Bids

Any of the processes outlined below in Section E may be used in lieu of formal bidding, so long as all requirements of state law are met.

B. INFORMAL BIDS ($30,000 TO $90,000)

The purchase of apparatus, supplies, materials, or equipment for expenditures of at least $30,000 but less than $90,000 must be secured through the informal bidding process governed by G.S. 143-131. The superintendent, in consultation with the purchasing officer, is authorized to determine the best method for securing informal bids on a product. The purchasing officer shall oversee the use of any purchasing method and ensure that all state requirements are met, including maintaining records of all bids submitted. Records of informal bids will not be available for public inspection.
until the contract has been awarded. Awards will be made to the lowest responsible, responsive bidder(s) whose bid or proposal meets the requirements and criteria set forth by the school system, taking into consideration quality, performance, and the time specified in the proposal for the performance of the contract. The superintendent or designee may reject an informal bid submitted by a supplier or contractor whose performance on a previous contract was found to be unsatisfactory by the superintendent or the board.

1. Competitive Sealed Bids

Informal bid requirements may be met by the use of sealed bids. The purchasing officer may utilize the methods for formal competitive bids provided in Section A or may determine other appropriate methods for soliciting sealed bids. The bid specifications must include the time, date, and place for opening bids. No advertisement for bids is necessary (unless the formal bid process is used); however, the purchasing officer may advertise for bids as he or she deems appropriate.

2. Quotations

Informal bid requirements may be met by the solicitation of quotes from prospective vendors. Quotations may be solicited and submitted via telephone, fax, e-mail, or the North Carolina E-Procurement system. Telephone quotes must be placed in writing before a final contract will be awarded. Written quotations must be on the vendor's letterhead or an official quotation form.

3. Reverse Auction

A reverse auction may be used to solicit informal bids, consistent with the process provided in Section A.2.

4. Exceptions to Informal Bids

Any of the processes outlined below in Section E may be used in lieu of informal bidding, so long as all requirements of state law are met.

C. LOCAL REQUIREMENTS FOR PURCHASES FOR LESS THAN $30,000

When competitive bidding is not statutorily required, purchases should be made under conditions that foster competition among potential vendors. Purchasing decisions should be made after considering price, quality, suitability for specified need, and timeliness of delivery and performance. The board may refuse to enter into a contract with a supplier or contractor whose performance on a previous contract was found to be unsatisfactory by the superintendent or the board.
If informal bidding is used, the informal bidding process described in Section B, above, will be followed.

D. ELECTRONIC BIDDING

Pursuant to G.S. 143-129.9(a)(2), the school system may receive bids electronically in addition to or instead of paper bids. If electronic bids are used for purchases that must be formally bid, procedures for receipt of electronic bids must be designed to ensure the security, authenticity, and confidentiality of the bids to at least the same extent as provided with paper bids. The superintendent, in consultation with the purchasing officer, shall determine whether electronic bidding is appropriate for a specific purchase or category of purchases.

E. EXCEPTIONS TO THE FORMAL AND INFORMAL BIDDING REQUIREMENTS

The school system may utilize the following purchasing options instead of pursuing competitive bidding. Formal or informal bidding is not required if any of these processes are used. The purchasing officer shall gather information to document the basis for the use of any exceptions to the competitive bidding requirements. The superintendent, in consultation with the purchasing officer, may determine that using one of the following exceptions is appropriate for a specific purchase or group of purchases.

1. Purchases from Other Governmental Agencies

Pursuant to G.S. 143-129(e)(1), the school system may contract for the purchase, lease, or other acquisition of apparatus, supplies, materials, or equipment from any other federal, state, or local governmental agency.

2. Special Emergencies

Pursuant to G.S. 143-129(e)(2), competitive bidding is not required in cases of special emergencies involving the health and safety of people or their property. For an emergency to exist under the statute, the following factors must exist: (1) the emergency is present, immediate, and existing; (2) the harm cannot be averted through temporary measures; and (3) the emergency was not self-created by the school system.

3. Competitive Group Purchasing

Pursuant to G.S. 143-129(e)(3), the school system may make purchases through a competitive bidding group purchasing program, through which another entity uses a competitive process to establish contracts on behalf of multiple entities at discount prices.
4. State Term Contract

Pursuant to G.S. 143-129(e)(9), the school system may purchase products included in state term contracts with the state vendor for the price stipulated in the state contract, if the vendor is willing to extend to the school system the same or more favorable prices, terms, and conditions as established in the state contract.

5. Sole Source

Pursuant to G.S. 143-129(e)(6), upon approval of the board of education, the school system may purchase an item through a single sole source contract under the following circumstances: (1) when performance or price competition is not available; (2) when a needed product is available from only one source of supply; or (3) when standardization or compatibility is the overriding consideration. When requesting a purchase under the sole source exception, the purchasing officer shall provide the board with documentation that justifies the use of the exception.

6. "Piggybacking" or Previously Bid Contracts

Pursuant to G.S. 143-129(g), upon approval of the board of education, the school system may purchase from any supplier that, within the previous 12 months, has contracted to furnish the needed item to the federal government, to any state government, or to any agency or political subdivision of the federal government or any state government. Before recommending a purchase using the piggybacking exception, the purchasing officer shall ensure that the following requirements are met: (1) the price and other terms and conditions of the contract are at least as favorable as the prior contract; (2) the contract was entered into following a public, formal bidding process substantially similar to that required by North Carolina General Statutes; (3) the same vendor is used; and (4) notice of intent to award the contract without bidding is publicly advertised at least 10 days prior to the regularly-scheduled board meeting at which the contract will be approved. Before approving the contract, the board must determine that using the contract is in the best interest of the school system.

7. Purchases of Information Technology Goods and Services

Pursuant to G.S. 143-129(e)(7) and 143B-1324(b), the school system may purchase or lease information technology through contracts established by the Department of Information Technology. The purchasing officer shall work with the information technology department to ensure that any such purchases meet the needs of the school system.
In addition, the school system also may purchase information technology goods and services by using a request for proposal (RFP) pursuant to G.S. 143-129.8, provided that the following requirements are met: (1) notice of the request is provided consistent with the formal bidding notice requirements and (2) contracts are awarded to the person or entity that submits the best overall proposal as determined by the purchasing officer and superintendent. The RFP should describe the scope of work, general terms and conditions, specifications of the product needed by the school system, and the application process. The information technology supervisor shall assist the purchasing officer in reviewing the responsiveness of any RFP submitted pursuant to this subsection. RFPs will be evaluated using the "best value" method as defined in G.S. 143-135.9(a)(1) so that the system may select the most appropriate technological solution to meet the school system's objectives. However, if the purchasing officer considers the purchase to be highly complex or is unable to clearly determine what the optimal solution for the school system is, the "solution-based solicitation" or "government-vendor partnership" method may be used. The purchasing officer may negotiate with the proposer to obtain a final contract that meets the best needs of the school system, so long as the alterations based on such negotiations do not deprive proposers or potential proposers of the opportunity to compete for the contract and do not result in the award of the contract to a different person or entity than would have received it if the alterations had been included in the RFP.

8. Gasoline, Fuel, and Oil Purchases

Pursuant to G.S. 143-129(e)(5), the school system may purchase gasoline, fuel, and oil products without using formal competitive bidding. However, such purchases are subject to the informal bidding requirements provided above.

9. Used Products

Pursuant to G.S. 143-129(e)(10), the school system may purchase previously used apparatus, supplies, materials, or equipment without using formal competitive bidding. Before purchasing used products, the purchasing officer shall ensure that the products are in good, usable condition and will be sufficient to meet the school system's needs for a reasonable period of time.

10. Published Materials

Pursuant to G.S. 115C-522(a), compliance with Article 8 of Chapter 143 of the General Statutes is not mandatory for the purchase of published books, manuscripts, maps, pamphlets, and periodicals. Such purchase shall be made in accordance with Section C of this policy.
F. LEASE PURCHASE CONTRACTS AND OTHER CONTRACTS FINANCED OVER TIME

Lease purchase contracts, contracts that include options to purchase, and leases for the life of equipment all must be bid consistent with the requirements of G.S. 143-129 and 143-131. The purchasing officer shall ensure that such contracts meet the legal requirements and the provisions of policy 6420, Contracts with the Board.

G. USE OF SCHOOL SYSTEM TERM CONTRACTS

The school system may create and use term contracts for items that are routinely purchased by the school system. If the estimated expenditure for a routine item under the term contract is equal to or exceeds $90,000, the contract must be formally bid. If the estimated expenditure is at least $30,000 but less than $90,000, the contract must be informally bid. The purchasing officer may incorporate the use of a term contract in the bidding specifications. If term contracts are used, the board attorney, in consultation with the purchasing officer, shall review the contracts. If a single purchase on a short term contract exceeds the formal or informal bid thresholds, then the superintendent may approve an exception up to $5000 above the threshold so as not to delay or disrupt a repair project or services to the district. The superintendent shall bring a new short term contract to the board for approval at its next meeting. District staff shall formally bid this contract in the following fiscal year.

H. HISTORICALLY UNDERUTILIZED BUSINESSES

The board affirms the state's commitment to encouraging the participation of historically underutilized businesses in purchasing functions. The board will comply with all legal requirements and the standards in policy 6402, Participation by Historically Underutilized Businesses.

Legal References: 2 CFR 200.317-326; G.S. 64 art. 2; 115C-36, -522; 143 art. 8; 143B art. 14; 1; 147 art 6E, art. 6G; Sess. Law 2013-128

Cross References: Participation by Historically Underutilized Businesses (policy 6402), Organization of the Purchasing Function (policy 6410), Contracts with the Board (policy 6420),Federal Grant Administration (policy 8305)

Adopted: 3/4/99 Revised: 9/1/05, 8/12/10, 1/19/17, 6/21/18

The board is the sole agency authorized to execute formal contracts between the school district and any firm or person offering to provide materials, equipment, or services to the school district. Creditors are on notice that the board may choose not to honor contracts made without proper authorization by designated school or school district official

2. **Policy 6420** addresses contracts with the Board. Additional language suggested by the Assistant Superintendent for Operations is included in the
Policy 6420 Contracts with the Board

The board is the sole entity authorized to execute formal contracts between the school district and any firm or person offering to provide materials, equipment, or services to the school district. Creditors are on notice that the board may choose not to honor contracts made without proper authorization by designated school or school district officials entered into by school or school system officials without authority to enter into contracts.

A. AUTHORIZATION TO ENTER INTO CONTRACTS

No contract requiring the expenditure of funds may be agreed upon unless the budget resolution adopted pursuant to board policy 8110, Budget Resolution, authorizes the expense and there is a sufficient unencumbered balance to pay the amount to be disbursed. (See policy 6421, Pre-audit and Disbursement Certification). No contract may be entered into with a restricted company, as listed by the state treasurer in accordance with G.S. 147, art 6E or 6G except as permitted by those laws.

Any contract involving expenditures in excess of $90,000 must be reviewed by the board attorney and approved in advance by the board unless provided otherwise in board policy. (Approval requirements for construction and repair contracts are established in policy 9120, Bidding for Construction Work.)

Unless otherwise prohibited by statute or regulation, the superintendent or his or her designee is authorized to enter into contracts or approve amendments to contracts for materials, equipment, supplies, or services involving amounts up to $90,000, except board approval is required for multiple smaller contracts that would result in more than $90,000 being paid to the same vendor during the same fiscal year. Expenditures shall not be divided between fiscal years for the purpose of avoiding the requirements of this policy. However, change orders for construction and repair contracts are subject to the requirements of policy 9030, Facility Construction, not this provision. All contracts for auditors, attorneys and architects will be approved by the board.

To provide greater flexibility at the school level, the superintendent also may establish circumstances in which principals may enter contracts involving sums budgeted for the current fiscal year amounts up to $5,000. The superintendent, with appropriate involvement of the finance officer, will establish any procedures necessary to ensure fiscal accountability and reporting by principals who enter into contracts.

No additional changes recommended for policy 6420.
3. **Policy 6450** governs the purchase of services. The suggested changes below add clarity and specify clear guidelines for the procurement of services and contracts. The assistant superintendent for operations provided much of the recommended new language below. Again, new language is underlined, and strike throughs represent deletions. An additional legal reference is included.

**Policy Code: 6450 Purchase of Services**

Services will be purchased in a manner consistent with the board’s purchasing goals. The board generally does not require competitive bidding is not required for the purchase of services; however, contracts for services will be made under conditions which foster competition among potential providers when feasible and after careful pricing.

A. **The Board generally does not require competitive bidding for the purchase of services, however, all contracts for services will be made under conditions which foster competition among potential providers when feasible in accordance with the guidelines listed in this policy.**

B. **No contract may be entered into with a restricted company, as listed by the state treasurer in accordance with G.S. 147, art 6E or 6G, except as permitted by those laws.**

C. **Services over $30,000 and under $90,000 fall within the informal purchases range. Even though the local Board considers these service purchases to be informal, a competitive process should be used when feasible to identify and consider multiple providers. The contract for services should include a full scope of work to be performed and a list of deliverables to be provided. A record of the selection process shall be maintained.**

D. **A formal request for proposals will be developed for the procurement of all services over $90,000. This includes the requirement for encouraging the participation of historically underutilized businesses and the submission of formal sealed written proposals. Board approval is required for services contracts costing more than $90,000 as indicated in Policy 6420 Contracts with the Board. Vendors who would provide services and materials should follow the purchasing guidelines in Policy 6430.**

E. **Service purchases shall not be divided between fiscal years for any provider for the purpose of avoiding the requirements of this policy.**

F. **Purchases using federal funds must be made in accordance with the terms and conditions of the federal award and all applicable requirements of federal law and regulation, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance”) issued by the U.S. Office of Budget and Management. (See also policy 8305, Federal Grant Administration.)**
G. Contracts entered into with entities or individuals to provide a driver education program for students must be awarded on a competitive basis through requests for proposals to contract and in accordance with the requirements of State Board of Education Policy DRIV-001.

H. This policy does not apply to contracts for architectural, engineering, surveying, and construction management at risk services, which are governed by policy 9110, Use and Selection of Architects, Engineers, Surveyors, and Construction Managers At Risk.

Legal References: G.S. 115C-36; 143-64.31; 147, art. 6E, art. 6G; 143-131(a)

Cross References: Goals of the Purchasing Function (policy 6400), Use and Selection of Architects, Engineers, Surveyors, and Construction Managers At Risk (policy 9110)

Adopted: 3/4/99

Revised: 4/6/16, 7/18/17, 3/15/18, 1/24/19

4. Policies 9030, 9120, and 9130 address construction contracts and change orders to construction projects. The consultants suggest amending Policy 9030 to lower the dollar threshold that would require Board approval of construction change orders to $50,000 and to clarify the construction contract amounts that require an architect and/or engineer. Language is deleted in the new section C(4) since any contract above $300,000 requires the employment of an architect or engineer.

The consultants also recommend amending Policy 9120 Bidding for Construction Work, Section D. Current language in the policy concerning Informal Bidding does not provide for a record of informal bids to be maintained. Section E of Policy 9120 contains the phrase “unless provided otherwise in board policy.” The consultants believe that the board’s desire to approve all construction contracts over $100,000 should be done without exception. The first sentence of Section E is listed below with the strike-through as suggested and G.S. 143-131 is added to the Legal References.

Finally amend Policy 9130 to remove all references to change orders.

Again, new language is underlined, and strike throughs represent deletions.
Policy Code: 9030 Facility Construction

Facility construction will be undertaken in accordance with the Capital Investment Plan adopted by the board of education, the facility design approved by the board, and the Orange County School Facility Construction Standards. Any repairs or renovations of school facilities should be undertaken in such a way as to minimize disruption of instructional time and the educational environment.

A. QUALITY OF CONSTRUCTION

Buildings should be constructed with durable materials that, when possible, permit space to be adapted to various purposes and to be adjusted to changes in technology or the educational program.

The board will not accept substandard construction. In the event of insufficient funding for a project, the board will defer implementing parts of the long-range plan.

B. REQUIRED USE OF ARCHITECTURAL AND ENGINEERING SERVICES

G.S. 133-1.1 requires that architectural and/or engineering (A&E) design services be used for projects involving repairs to public buildings that do not include major structural change in framing or foundation support systems costing more than $300,000. If life safety systems are impacted, then A&E services are required for all projects costing more than $100,000. If repair projects impact major structural change in framing or foundation systems, then A&E services are required for projects costing more than $135,000. If a building or an addition to a building is being constructed, then A&E services are required for all projects costing more than $135,000.

C. CHANGE ORDERS FOR ALL CONTRACTS FOR CONSTRUCTION OR REPAIR WORK

1. All Contracts for Construction or Repair Work
   1. Use of Change Orders

   After a contract for construction or repair work has been awarded, the need may arise to amend the terms, conditions, or specifications of the contract by a change order. Change orders may not be used or divided to evade bidding requirements or the requirements of this policy. Unless otherwise prohibited by statute or regulation, the superintendent or designee is authorized to approve change orders involving additive or deductive sums up to $100,000 $50,000 so long as funding for the change order is available within the established project budget.

2. Change Orders That Must be Reported to the Board

   The superintendent shall report to the board all change orders that were approved by the superintendent, including those that do not impact the contract amount. The report will be provided to board members in writing on a monthly basis or at the
next board meeting and will include the following information: (1) the contractor's name; (2) the project name; (3) a brief description of the change; (4) the contract amount, including amount(s) of any prior changes; and (5) the change order amount; and (6) include a copy of the A&E recommendation if A&E services are required. The superintendent is not required to report any proposed change order that was denied by the superintendent or designee.

3. Change Orders Requiring Board Approval

Change orders which (1) involve amounts over $100,000, (2) are in excess of the remaining funds in the project budget, or (3) cause the total cost of a contract that has not been previously approved by the board to exceed $300,000, require board approval. The superintendent shall present all such proposed change orders that are recommended for approval to the board at a board meeting. The superintendent is not required to present to the board any change order not recommended for approval.

If, in the superintendent's opinion, a change order requires expedited review, the superintendent shall notify the board chair, who will decide whether a special meeting must be called to address the proposed change order before the next board meeting.

4. Additional Requirements for Contracts in Excess of $300,000

When amendments to a contract in excess of $300,000 are necessary, the contractor shall submit a proposed change order in writing to the project architect/engineer for review. If the project does not have an architect/engineer, the change order shall be submitted to the superintendent or designee. Any request for expedited review must also be in writing and accompany the proposed change order. The contract for construction projects in excess of $300,000 must specify the manner in which change orders will be submitted on those projects.

Legal References: G.S. 115C-521, -524

Cross References: Contracts with the Board (policy 6420), Planning to Address Facility Needs (policy 9000), Bidding for Construction Work (policy 9120), Facility Design (policy 9020)

Issued: August 1, 2016
Revised: 9/15/16

Policy Code 9120 Section D. Informal Bidding

Informal bids will be obtained for construction and repair contracts between $30,000 and $300,000. Quotations from contractors may be solicited by telephone, facsimile, e-mail, or writing. All such contracts shall be awarded to the lowest responsible,
responsive bidder, taking into consideration quality, performance, and the time
specified in the bids for the performance of the contract. A record of all bids submitted
shall be maintained by the superintendent or designee, and such record shall not be
subject to public inspection until the contract has been awarded. Informal bids are
recommended, but not required for construction and repair work costing less than
$30,000.

Policy Code 9120 Section E. Informal Bidding

Any construction or repair contract involving expenditures in excess of $100,000 must
be reviewed by the board attorney and approved in advance by the board unless
provided otherwise in board policy.

No additional changes until the Legal References section listed below.

Legal References: 2 C. F. R. 200.317-200.326; G. S. 64, art. 2; 115C-521, -522; 143-64.31
and art. 8; 143-131 (a); 147, art. 6E art, 6G

Policy Code: 9130 Supervision of Construction Contracts

The superintendent is responsible for monitoring the contracts with the architect and all
contractors. The superintendent or designee will report periodically to the board on the
progress being made by the contractors and architects, including whether the work is being
performed in accordance with plans, specifications, contracts, and specified deadlines. The
superintendent may utilize consultants for performing the review required by this policy. Any
contract for such services must be approved by the board and the cost included in the budget
for the project.

CONSTRUCTION CHANGE ORDERS

Change orders represent additions or deletions to the project's scope of work. Existing site
conditions, product improvement, finalization of allowances, increased scope of activity, and
escalation of work are some reasons for incurring change orders. In most cases, payment for a
change order requires a transfer of funds from the project's contingency. Contingency funds
are established in a project budget for this purpose. Change Orders must be reviewed and
approved by the architect prior to acceptance by the superintendent or designee. Approved
change orders must be implemented within the project's available contingency funds. If
additional project funds are required to complete a change order, the superintendent will
notify the school board and provide alternative funding sources. At the completion of the
project, the necessary budget amendments will be filed reflecting the project's final
expenditure of funds.

Legal References: G.S. 115C-36, -47
Recommended policy change regarding board committees

The consultants experience with the use of standing board committees combined with information gained from the central office staff interviews, led to a recommendation that the board consider (1) adding a Board Curriculum Committee and a Board Building and Grounds Committee and (2) codify all standing committees in Policy 2230. Currently Policy 2230 authorizes the board to create standing committees and describes the governance of those committees but does not identify existing standing committees. The consultants understand that the Board has a policy committee and has recently created a finance committee.

Interviews suggest that there are many special programs offered to the students in the CHCCS. The Board is to be commended for offering a wide range of educational opportunities and the community is to be commended for funding those opportunities. A curriculum committee would allow a subset of the Board to dig deep into new curriculum proposals and to discuss large scale programs that require significant staff training and the purchase of educational materials. It is likely that a curriculum committee would have discussed the large training contract with Education Elements.

A building and grounds committee would also allow a subset of the Board to review in depth the district’s capital improvement plan, prioritize construction and repair projects, review building specifications and schematics for new construction, and monitor capital projects.

Board committees allow the regular meetings of the Board of Education to become more streamlined. The consultants recommend that the chair of each standing committee update the board at each meeting and when appropriate make recommendations for approval by the full board. When there are a number of construction/repair issues coming before the board, the Building and Grounds committee’s recommendations could be acted on with one motion.

Amendments to Policy 2230 follow. The consultants have provided sample language for the scope of each standing committee. As before, suggested new language is underlined, and language deletions are indicated with a strike through.
Policy Code: 2230 Board Committees

STANDING COMMITTEES

The board may organize standing committees for the purpose of conducting thorough deliberations and investigations of issues and informing and recommending action to the board as appropriate.

Standing Committees allow board members with particular interests and expertise to more closely observe and participate in the oversight and operations of the school district. Each committee shall have at least three members. The chairperson of the board shall appoint members and designate a committee chairperson each fiscal year. The committee chairperson will preside at all committee meetings and work with the superintendent or his or her designee to develop an agenda for each meeting. Committee members will be e-mailed the agenda and any agenda materials at least three days before the meeting. Standing committees only make recommendations to the full board and have no authority to act on behalf of the board unless specifically authorized by the board. Each standing committee will report to the board following each committee meeting and make recommendations on pending action by the board.

STANDING COMMITTEES

The Building and Grounds Committee shall review and provide input into the district’s 10-year facility plan, help establish repair and capital project priority lists, and review the status of all construction projects.

The Curriculum Committee shall review staff analyses of areas of improvement and discuss strategies for closing both programmatic and student performance gaps, provide feedback on all proposed curriculum changes, and review school improvement plans.

The Finance Committee shall review all budget transfers and amendments, review the annual budget and the funding requests to the County Commissioners, receive an annual report from the external auditors when the annual financial report is ready for filing, and review financial trends.

The Policy Committee shall review all requests for policy amendments, direct staff to prepare draft policies for review, and establish a cycle for policy manual review.

The assignment of individual board members to these committees will be published each year.

The committee chairperson will preside at all committee meetings. The committee chairperson will call meetings and establish an agenda for each committee meeting that will include any item suggested by the superintendent, committee member or board member.
The board chairperson will be an ex-officio member of each committee. The superintendent or his/her designee will assist the chairperson of each standing committee in the preparation of the agenda and in ensuring that information is available to the committee during its deliberation of issues.

A standing committee may only make recommendations to the board and has no authority to act on behalf of the board unless specifically authorized by law, board policy or the board.

AD HOC COMMITTEES

As time and situations demand, ad hoc committees may be appointed by the chairperson with the approval of the board. Whenever an ad hoc committee is created, a date will be established for reporting back to the board. Ad hoc committees have no final authority and are subordinate and advisory to the board.

OPEN MEETINGS LAW

All committees of the board are public bodies within the meaning of the North Carolina Open Meetings Law and are subject to all requirements of that law pertaining to notice, closed sessions, minutes, voting and penalties.

Legal References: G.S. 115C-36; 143-318.9 et seq.

Cross References: Compliance with Open Meetings Law (policy 2320)

Adopted: 4/23/98
Appendix A

Central Office Staff Interviewed:

Superintendent's Office

Jeff Nash  
Misti Williams  
Lee Williams  
Jill Hall-Freeman

Business and Finance Division

Jonathan Scott  
Liz Cartano

Human Resources Division

Erika Newkirk  
Quamesha Whitted-Miller  
Sherri Morris

Instructional Services Division

Jessica O'Donovan  
Roslyn Moffitt  
Tim Gibson  
Debby Atwater  
Quincy Williams  
Christy Stanley  
Kathi Breweur

Support Services Division

Patrick Abele  
Eric Allen  
Brad Johnson  
Dave Scott  
Doug Noell  
Scarlett Steinert  
Dan Snitzer

Student Services

Carlos Banks  
Diane Villwock  
Scott Fearington  
Lessley Mader  
Janet Cherry