



Questions and Answers: Use of State Money Statutory Changes

Introduction

[Minnesota Statutes 2023, section 124E.26](#) was amended by the [Laws of Minnesota 2024, chapter 109, article 6, section 21](#) to read as follows:

Subdivision 1. Purchasing buildings.

A charter school may not use state money to purchase land or buildings. The charter school may own land and buildings if obtained through nonstate sources.

Subd. 2. Procurement policy required.

Prior to the expenditure of any state funds, a charter school must adopt a procurement policy consistent with subdivision 4.

Subd. 3. All purchases.

All purchases using state funds must be made consistent with the procurement policy adopted under subdivision 2.

Subd. 4. Required policy components.

A charter school procurement policy must at a minimum include:

- (1) conflict of interest provisions consistent with section 124E.14;
- (2) thresholds for purchases by employees without board approval;
- (3) thresholds for purchases that require competitive bidding processes, except that a competitive bidding process must occur for any procurement estimated to exceed \$25,000; and
- (4) a prohibition on breaking up a procurement into smaller components to avoid the thresholds established in clauses (2) and (3).

Subd. 5. Reduction in aid.

If a charter school makes a purchase without a procurement policy adopted by the school's board or makes a purchase not in conformity with the school's procurement policy, the commissioner may reduce that charter school's state aid in an amount equal to the purchase.

Subd. 6. Property, financial investments, and contracting.

A charter school is subject to and must comply with sections 15.054 and 118A.01 to 118A.06 governing government property and financial investments and sections 471.38, 471.391, 471.392, and 471.425 governing municipal contracting.

This document is designed to provide guidance related to these statutory changes. This document does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. It is not a comprehensive or definitive response to a specific legal situation. Consult with your school's attorney regarding your specific legal situation.

What are the requirements of the competitive bidding process? Can a competitive bidding process include consistency of services as part of the evaluation of bids?

The Laws of Minnesota 2024, chapter 109, article 6, section 21, subdivision 4 states, “A charter school procurement policy must at a minimum include [...] thresholds for purchases that require competitive bidding processes, except that a competitive bidding process must occur for any procurement estimated to exceed \$25,000”. The development of the competitive bidding process is a local decision, including the development of criteria to evaluate competitive bids. Several organizations offer resources related to competitive bidding and procurement; two are highlighted below that may be helpful in establishing a policy. Please note that these resources were not created specifically for charter schools but provide best practices and considerations for municipalities and other public entities, which may have different legal requirements and exemptions.

- [League of Minnesota Cities:](#)
 - [Information Memo: Competitive Bidding Requirements for Cities](#)
- [Office of State Auditor:](#)
 - [Best Practices Review: Contracting and Procurement in the Public Sector](#)

Ultimately, charter schools are advised to consult with their attorneys to ensure the legal standard of competitive bidding is met in their procurement policies.

Do charter schools need to use a competitive bidding process for Special Education staff contracts?

If the Special Education staff would be employees of the school, the school would follow its hiring policies and procedures. If the Special Education staff would be contractors or provided under a contract with a special education services provider, then the school would need to follow its procurement policy, including the provisions provided in the Laws of Minnesota 2024, chapter 109, article 6, section 21, subdivision 4, which indicates “a competitive bidding process must occur for any procurement estimated to exceed \$25,000.”

Can charter schools execute multi-year contracts under the new law?

The Laws of Minnesota 2024, chapter 109, article 6, section 21 does not place any specific restrictions on the length of contracts. As a best practice, the school’s solicitation for bids should indicate the timeframe for the project to be completed or the length of the service to be provided. While the law does not specifically restrict multi-year contracts, schools should not enter multi-year contracts as a means to avoid procurement requirements or to inhibit competitive bidding. Contracts with automatic renewal clauses may also be considered non-competitive. Schools should carefully consider whether multi-year contracts, including those with autorenewal clauses, allow the school to properly evaluate the services provided by the successful bidder.

As a best practice, contracts should include clear start and end dates as well as clear cancellation clauses that allow the school to terminate the contract to protect itself and public interests when necessary.

Are multi-year contracts executed prior to August 1, 2024 impacted by the statutory changes?

The Laws of Minnesota 2024, chapter 109, article 6, section 21 does not indicate contracts executed prior to August 1, 2024 are specifically impacted. A school's procurement policy may include provisions that would impact such contracts.

Can the procurement policy include exceptions for “sole source” procurements?

The Laws of Minnesota 2024, chapter 109, article 6, section 21 does not include a provision for “sole source” procurement or allowing a noncompetitive procurement between the charter school and a vendor. It is the responsibility of each charter school to develop and adopt a procurement policy that complies with state law.

Does subdivision 4 apply to a “procurement estimated to exceed \$25,000” if the school's actual cost is less than \$25,000 because the cost is subsidized whole or in part by a third party?

The Laws of Minnesota 2024, chapter 109, article 6, section 21, subdivision 4 applies to procurements estimated to exceed \$25,000 regardless of the funding source(s).

Regarding subdivision 6 (Property, financial investments, and contracting), which provisions apply to charter schools?

Charter schools must follow the provisions that these sections (sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06 governing government property and financial investments; and sections 471.38; 471.391; 471.392; and 471.425 governing municipal contracting) indicate governmental entities or municipalities subject to the sections must follow.

What was the reason for moving the provisions of subdivision 6 from Minnesota Statutes 2023, section 124E.16, to section 124E.26?

. The change of location in statute where the provisions are located does not change the meaning or requirements of the provisions.

Why did these statutory changes occur?

The Legislature made these changes. They are aimed at helping safeguard schools and state funding and support public purpose, and to help ensure fiscal responsibility.

Do the statutory changes apply only to state funds?

The Laws of Minnesota 2024, chapter 109, article 6, section 21 only applies to use of state funds. Charter schools should follow specific program procurement requirements related to federal funds based on the program's guidelines and [Uniform Grant Guidance](#). Adopting the strictest standards between the new state requirements and any applicable federal program requirements may allow a charter school to follow one procurement process for a majority of state and federal procurements.

Please contact the Charter Center at mde.charterschools@state.mn.us if there are additional questions.