

PROCUREMENT METHODS FOR SERVICES, SUPPLIES, EQUIPMENT, AND OTHER PROPERTY

This policy sets forth requirements and expectations related to methods of procurement, including purchases made, in whole or in part, using federal funds that have been awarded to the District. The Superintendent and Director of Business Services have primary administrative responsibility for directing and overseeing the implementation of this policy as a component of the District’s overall procurement procedures and within a system of internal controls that supports the District’s processes for budgeting, procurement management, accounting and financial management, and property disposition.

While this policy grants authority for employee procurement agents to utilize relatively informal competitive processes and even noncompetitive methods in some situations, such authority does not:

1. Permit any District procurement agent to disaggregate a purchase into multiple transactions with the intent and purpose of avoiding a cost threshold that requires a more demanding procurement method.
2. Preclude District procurement agents from lawfully going beyond any minimally-required and minimally-acceptable procurement procedures for the purpose of (a) enabling the District to make a more informed decision, (b) enhancing the District’s competitive and bargaining position with respect to a procurement decision, or (c) otherwise increasing the tangible or intangible value that the District can derive from a particular purchase or contract.

All persons involved in the procurement of services, supplies, equipment, or other property on behalf of the District are responsible for ensuring that (1) their actions and decisions are within the scope of their authority, and (2) they sufficiently understand and make all reasonable efforts to comply with applicable laws, School Board policy, and established District procedures.

Methods of Procurement for Purchases Supported by Federal Funds

When procuring services, supplies, equipment, or other property involving the use of federal funds that are subject to the procurement standards found in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance”), the District shall use a procurement method that (1) at a minimum, is consistent with the Uniform Guidance, as summarized at a general level in the following chart; and (2) implements any additional standard locally-defined procurement procedures/requirements that are not in conflict with the Uniform Guidance:

Cost Threshold	Allowable Federal Procurement Methods
A purchase of supplies or services that, in an aggregate amount, does not exceed \$10,000, as federally indexed	Such “micro-purchases” of supplies or services may be made or awarded without soliciting competitive quotations to the extent any of the following determines that the cost of the purchase/contract is reasonable: Superintendent and Director Business Services. Where multiple qualified suppliers of the same or materially interchangeable products have been identified and such suppliers offer effectively equivalent rates/prices and other terms, repeated micro-purchases that are subject to the Uniform Guidance are to be reasonably distributed among different suppliers when practical.

<p>Purchases below \$250,000, as federally indexed (unless the purchase qualifies as a “micro-purchase”)</p>	<p>Price or rate quotations must be obtained in advance from a reasonable number of qualified sources, as further detailed in District procurement procedures, <u>unless</u> (1) a valid basis exists under the Uniform Guidance for relying on procurement by a noncompetitive proposal (i.e., “single source” procurement), or (2) the District elects to use a more formal competitive bid or request for proposal process.</p> <p>To the extent required by federal regulations, the District will negotiate profit as a separate element of the price for each contract that is awarded in the absence of price competition.</p>
<p>Purchases of \$250,000 or more, as federally indexed</p>	<p>The District shall conduct a cost or price analysis for these purchases that, at a minimum, shall include making an independent estimate before receiving bids or proposals (including noncompetitive proposals). Whenever appropriate and relevant to the specific transaction, the cost analysis may include life-cycle cost estimates which shall then be incorporated into any solicitation of bids or proposals.</p> <p>Procurement shall be made by sealed bids or by competitive proposals <u>unless</u> a valid basis exists under the Uniform Guidance for relying on procurement pursuant to a noncompetitive proposal (i.e., “single source” procurement). However, no construction, facility remodeling, or other public works capital project with an aggregate cost of \$150,000 or more shall be conducted under a “single source” rationale without the express approval of the Board.</p> <p>To the extent required by federal regulations, the District must negotiate profit as a separate element of the price for each contract involving expenditures at or above this cost threshold.</p>

The above chart represents a starting point for identifying an appropriate and lawful procurement method for purchasing that is subject to the Uniform Guidance. Many additional details, requirements, restrictions, and procedures are established in the federal regulations. In certain cases, other federal laws and regulations establish additional requirements and/or affect the specific application of the Uniform Guidance.

Methods of Procurement for Purchases NOT Involving the Use of Federal Funds Subject to the Uniform Guidance Regulations

The following parameters for methods of procurement apply when the District procures services, supplies, equipment, or other property and the expenditure does NOT involve the use of any federal funds that are subject to the Uniform Guidance procurement regulations:

1. The District shall adhere to any other state or federal requirements that dictate the use of a certain procurement method for a particular purchase or contract.
2. When no separate state or federal requirement applies and the Board has not directed or approved a more specific procurement method for a particular purchase or contract, the Director of Business Services is authorized to utilize the following procurement methods:

Cost Threshold	District-Authorized Procurement Method(s)
A purchase in an aggregate amount that does not exceed \$10,000, as federally indexed	<p>Such purchases may be made or awarded under a reasonable business judgment standard without soliciting quotations, bids, or proposals. The Board will consider this standard satisfied to the extent that any of the following has determined that the cost of the purchase/contract was reasonable: Superintendent, Director of Business Services, or an administrative designee who is directly involved in approving or recommending the purchase.</p> <p>The administration may also elect to use any of the methods approved for the higher cost thresholds.</p>
A purchase in an amount greater than \$10,000 but less than \$250,000, as federally indexed	<p>Such purchases may be based on any of the following:</p> <ol style="list-style-type: none"> 1. multiple price or rate quotations obtained in advance from qualified sources, as further detailed in District procurement procedures applicable to purchases involving federal funds; 2. “single source” procurement to the extent there are grounds for doing so as specified under the federal Uniform Guidance or as separately approved by the Board; 3. the administration’s election to use a more formal competitive bid or request for proposal process.
Purchases of \$250,000 or more, as federally indexed	<p>Such purchases may be based on any of the following:</p> <ol style="list-style-type: none"> 1. competitive bids; 2. competitive proposals; 3. “single source” procurement to the extent there are grounds for doing so as specified under the federal Uniform Guidance or as separately approved by the Board except that no construction, facility remodeling, or other public works capital project with an aggregate cost of \$150,000 or more shall be conducted without the solicitation of competitive bids or competitive proposals without the express approval of the Board. <p>Whenever appropriate and relevant to the specific transaction, the District will make life-cycle cost estimates and incorporate consideration of life-cycle costs into the solicitation and evaluation of competitive bids and proposals.</p>

The Board authorizes “single source” (i.e., noncompetitive) procurement for **non-federal** purchases if at least one of the following justifications has been verified and documented by the Superintendent or Director of Business Services:

1. Any of the circumstances is present under which noncompetitive procurement would be allowable under the federal Uniform Guidance.

2. The purchase involves the District’s choice to exercise a renewal or extension option found in an existing license or other contracting arrangement where the underlying contract was either previously approved by the Board or procured via the solicitation of competitive bids or competitive proposals.
3. The District is choosing to continue to use (or expand the use of) a specific product or service (such as a specific curriculum element or computer application or software system) that is already in use in the District and in which a significant investment of time and/or money has already been made. In such a situation, the District may consider a particular brand or particularly proprietary version of a product to be a “single source,” and may further consider a specific vendor or contractor to be “single source” when such vendor or contractor has exclusive rights to purvey the goods or services in question.
4. The District makes the purchase from another unit of government or the procurement is pursuant to a contract or other agreement with a Cooperative Educational Service Agency or via an intergovernmental agreement.
5. The procurement is pursuant to pre-negotiated state contract pricing.
6. Grant monies are involved and the grant mandates the participation of expressly-identified grant partners, subcontractors, or vendors.
7. The Board has otherwise expressly authorized or approved a noncompetitive procurement process.

The Board acknowledges that the procurement of professional services, such as legal services, can present unique situations such that a contract or other service agreement may not be readily amenable to the typical procurement methods and procedures outlined in this policy. Accordingly, whenever such procurement decisions are legally left to the District’s discretion, the Board relies heavily on its own oversight function. Therefore, except in emergency circumstances where the Superintendent or reasonably relies on an authorized “single source” rationale for such procurement, the Board expects the Superintendent to work jointly with the Board to define (1) a situation-appropriate procurement or selection process; (2) the scope of any current or potential future professional services the Board is being asked to approve or authorize; and (3) the scope of any District agent’s authority, if different from standard policy-based purchasing authority, to engage a pre-approved provider of professional services in the future without obtaining advance approval from the Board for the specific engagement.

ADOPTED: June 10, 2019

REVISED:

LEGAL REFERENCES:

Wisconsin Statutes

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| Section 16.73 | [cooperative purchasing] |
| Section 66.0131 | [local government purchasing, including intergovernmental purchases without bids, recycled and recyclable content of procured goods, and life-cycle cost estimates] |
| Section 66.0133 | [energy savings performance contracting; procedures and bidding] |
| Section 66.0135 | [contracts and orders, receipt of invoices, and payments] |
| Section 66.0301 | [intergovernmental agreements] |
| Section 66.0903 | [prevailing wage requirements and the related suspension and debarment requirements] |
| Section 118.03 | [board requirement to adopt all textbooks necessary for use in the schools] |

Section 120.10	[powers of the annual meeting, including authorizing or directing the district to purchase/provide certain property or services]
Section 120.12(24)	[school board duty to solicit sealed bids prior to selecting provider of group health care benefits]
Section 120.13(3)	[school board power to enter into certain intergovernmental agreements]
Section 120.13(5)	[school board power to purchase books, materials and equipment for use in the schools]
Section 779.14	[performance bonds, payment bonds, and other contract requirements in connection with public improvements or public works]
Federal Law	
2 C.F.R. Part 180	[federal suspension and debarment requirements]
2 C.F.R. §200.212	[Uniform Guidance regulation that applies federal suspension and debarment requirements to non-federal entities that spend federal funds]
2 C.F.R. §200.318	[general standards for procurement supported by federal funds]
2 C.F.R. §200.319	[competition in procurement supported by federal funds; written procurement standards required]
2 C.F.R. §200.320	[methods of procurement to be followed for purchases supported by federal funds; includes specific requirements for competitive bids and proposals and the list of circumstances under which noncompetitive procurement is allowable for federally-supported purchases]
2 C.F.R. §200.321	[federal funds contracting with small and minority businesses, women's business enterprises, and labor surplus area firms]
2 C.F.R. §200.322	[procurement of recovered materials; federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act]
2 C.F.R. §200.323	[cost or price analysis requirements for procurement in excess of the simplified acquisition threshold; requirement to negotiate profit as a separate element of the price for certain contracts]
2 C.F.R. §200.325	[bid guarantee, performance bond, and payment bond requirements for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold]
2 C.F.R. §200.326	[contract provisions for non-federal entity contracts under federal awards]
2 C.F.R. App. II to Pt 200	[contract provisions for non-federal entity contracts under federal awards]
7 C.F.R. §§210 to 226	[child nutrition program regulations; including allowances of geographic preference in the procurement of certain unprocessed locally grown or locally raised agricultural products]
7 C.F.R. §210.16	[contracting for the participation of food service management company in connection with school meal programs]
34 C.F.R. §75.135	[U.S. Department of Education direct grant competition exception for proposed implementation sites, implementation partners, or service providers]

CROSS REFS.: DJA-R, Procurement Procedures Implementing Federal Regulations and Local Policy
DJAA – Standards in Conduct in Purchasing and Contracting

REVIEW DATE: June 10, 2019

PROCUREMENT PROCEDURES IMPLEMENTING FEDERAL REGULATIONS AND LOCAL POLICY

Federally-Authorized Grounds for “Single Source” Procurement

In connection with procurements made using, in whole or in part, federal funds that are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance”), any one or more of the following conditions may justify procurement pursuant to a noncompetitive proposal (i.e., relying on “single source” procurement):

1. The item is available only from a single source;
2. A public exigency or emergency for a necessary procurement will not permit a delay resulting from a competitive solicitation;
3. After solicitation of a number of sources, the District determines that competition is inadequate;
4. The federal awarding agency or the state as a pass-through entity has expressly authorized noncompetitive proposals in response to a written request from the District.

The District will document the grounds for using a noncompetitive process in lieu of an otherwise-required competitive method of procurement.

In addition to the above-listed federal justifications for noncompetitive procurement, Board policy lists additional grounds for using a noncompetitive process that the administration and District procurement agents may rely on for purchases that are not supported by federal funds that are subject to the Uniform Guidance.

District Standards for Obtaining Price/Rate Quotations to Support Procurement Decisions

The following procedures and standards apply to District procurement decisions that include the consideration of valid price or rate quotations, including procurements made using, in whole or in part, federal funds that are subject to the Uniform Guidance:

1. The District’s preferred standard is three (3) quotations from separate sources among which the District is essentially indifferent as to all specifications and terms other than cost. The minimum standard (when not relying on a valid sole-source justification) is at least two (2) price/rate quotations representing acceptable procurement options. If applicable, the reason for deviating from the preferred standard shall be documented. One example of a valid reason for such a deviation is the demonstrated administrative burden associated with meeting the preferred standard in a specific situation.
2. Documented price or rate quotations may be obtained from an online search, from publicly-advertised prices, from written quotations prepared upon request, by documenting verbal quotations, or by referencing any pre-established procurement arrangement that the District is entitled to utilize (e.g., consortium pricing). In submitting a purchase or contract for School Board approval, the administration may consider quotations from a source not expressly listed in this paragraph if such an alternative source is documented and identified for the Board’s consideration.
3. The specific price/rate quotation need not be the sole determining factor in the procurement decision when the District, considering the best interests of the District and the responsible expenditure of funds, determines at its discretion that (a) other relevant and material differences exist among the quotations (e.g.,

quality, functionality, vendor-supplied support services, life-cycle cost estimates, vendor experience in connection with the purchase of services, etc.), and (b) such differences predominate over a strict cost comparison. The reason for deviating from using cost as the determining factor shall be documented.

Methods of Determining Reasonable Prices for a “Micro-Purchase” Made under Informal Procurement Methods

Where District procurement agents are permitted to make or authorize a purchase in an aggregate amount of \$10,000 or less based on a determination that the price of the purchase is reasonable, such determination may be made by, for example, comparing the price to previous purchases of the same item(s), having personal knowledge of typical pricing for the item(s) being purchased, or comparing the price of items that are similar to the items being purchased.

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