

Federal Funds Procurement Policy

Procurement of all supplies, materials, equipment, and services paid for from Federal funds shall be made in accordance with all applicable Federal, State, and local statutes and/or regulations, the terms and conditions of Federal grant and Board policies.

The School's Superintendent shall maintain a procurement and contract administration system in accordance with the USDOE requirements (2 CFR 200.317-326) for the administration and management of Federal grants and Federally-funded programs.

The School shall require contractors to perform in accordance with the terms, conditions, and specifications of their contracts and/or purchase orders.

All School employees, officers, and agents who have purchasing authority shall abide by this policy and the standards of conduct covering conflicts of interest in the selection, award, and administration of contracts.

The School will avoid acquisition of unnecessary or duplicative items. Consideration shall be given to consolidating procurements to obtain best pricing. When appropriate, an analysis shall be made of lease versus purchase alternatives,

For greater economy and efficiency, the School may enter into agreements with other schools or entities where appropriate for procurement or use of common or shared goods and services.

Purchase Methods

The type of purchase procedures required depends on the cost of the item(s) being purchased.

Purchases up to \$10,000 (Micro-Purchases):

Micro-purchases means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed \$10,000. The micro-purchase method is used in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.

Micro-purchases may be awarded without soliciting competitive quotations if the School considers the prices to be reasonable. The School maintains evidence of this reasonableness in the records of all micro-purchases.

Purchases between \$10,001 and \$250,000 (Small Purchase Procedures):

Small purchases are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than \$250,000. If small purchase procedures are used, price or rate quotations are obtained from an adequate number of qualified sources.

Purchases over \$250,000:

Sealed Bids (Formal Advertising): For purchases over \$250,000, bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for the procuring construction, if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, tribal governments, the invitation for bids must be publically advertised;
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be openly publicly;
- A firm fixed price contract award must be made in writing to the lowest responsive and responsible bidder.

Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experiences indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

*All thresholds limits as listed are subject to periodic changes in law.

Competitive Bidding

The School will comply with 2 CFR 200.88 and 200.320 and other relevant statutes by using competitive bidding when using Federal grant funds.

Even when not required to use competitive bidding, procurement transactions shall be conducted in a manner that encourages competition and that is in accordance with good administrative practice and sound business judgement.

Solicitation Language

When required to use competitive bidding, the School shall require that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary,

shall set forth those minimum essential characteristics and standards to which it shall conform if it is to satisfy its intended use. Detailed product specifications should be avoided unless necessary.

Cost/Price Analysis

The School shall perform a cost or price analysis in connection with every procurement action in excess of \$150,000, including contract modifications. A cost analysis shall mean evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. When performing a cost analysis, the School shall negotiate profit as a separate element of the price. To establish a fair and reasonable profit, consideration is given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Time and Materials Contracts

The School uses a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the School is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. Because this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor to control cost or labor efficiency. Therefore, the School will set a ceiling price for each contract that the contractor exceeds at its own risk. Further, the School shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Suspension and Debarment

The School will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interests of the School and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the School shall consider such factors as (1) contractor integrity; (2) compliance with public policy; (3) record of past performance; and (4) financial and technical resources.

The Superintendent shall have the authority to suspend or debar a person or entity, for cause, from consideration or award of further contracts. The School is subject to and shall abide by the nonprocurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180.

Suspension is an action taken by the School that immediately prohibits a person from participating in covered transactions and transactions covered under the Federal Acquisition

Regulation (48 CFR chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person so excluded is suspended. (2 CFR Part 180 Subpart G)

Debarment is an action taken by the Superintendent to exclude a person from participating in covered transactions and transactions covered under the Federal Acquisition Regulation (48 CFR chapter 1). A person so excluded is debarred. (2 CFR Part 180 Subpart H)

The School shall not subcontract with or award subgrants to any person or company who is debarred or suspended. For contracts using Federal funds over \$25,000, the School shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management, which maintains a list of such debarred or suspended vendors at www.sam.gov; collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 CFR Part 180 Subpart C)

Bid Protest

When using competitive bidding, the School will use protest procedures to handle and resolve disputes relating to procurements and discloses information regarding the protest to the awarding agency.

A bidder who wishes to file a bid protest shall file such notice and follow procedures prescribed by the Request For Proposals (RFPs) or the individual bid specifications package, for resolution. Bid protests shall be filed in writing with the Superintendent within seventy- two (72) hours of the opening of the bids in protest. Within five (5) days of receipt of a protest, the Superintendent shall review the protest as submitted and render a decision regarding the merits of the protest and any impact on the acceptance and rejection of bids submitted. Notice of the filing of a bid protest shall be communicated to the Board and shall be so noted in any subsequent recommendation for the acceptance of bids and awarding of contracts.

Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed, shall constitute a waiver of proceedings.

Maintenance of Procurement Records

The School maintains records sufficient to detail the history of all procurements. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price (including a cost or price analysis).