

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

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{The federal government's Uniform Guidance for receiving and using federal grants and awards requires school districts to meet specific procurement requirements when making purchases supported by federal funds and to otherwise make use of the district's own documented procurement procedures. This sample policy establishes authorized methods of procurement based on (1) whether the purchase is supported by federal funds, and (2) certain cost thresholds. The local cost thresholds and authorized procurement methods are based heavily on the federal thresholds and methods. This sample policy is intended to coordinate with PRG 672.1 Sample Rule 1, and the supporting rule (or a modified version of the rule) should be adopted in connection with local use of this sample policy.}

This policy sets forth requirements and expectations related to methods of procurement, including purchases that are made, in whole or in part, using federal funds that have been awarded to the District. The **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/financial management, and property disposition.

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

- Permit any District procurement agent to disaggregate a purchase into multiple transactions in an uneconomical manner with the intent and purpose of avoiding a cost threshold that requires a more demanding procurement method.
- Preclude District procurement agents from lawfully going beyond any minimally-required and minimally-acceptable procurement procedures for the purpose of (1) enabling the District to make a more informed decision, (2) enhancing the District's competitive and bargaining position with respect to a procurement decision, or (3) otherwise increasing the tangible or intangible value that the District can derive from a particular purchase or contract. For example, the District may obtain multiple price quotations for a purchase even in circumstances that are considered "micro-purchases" under this policy.

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.

Procurement Supported by Federal Funds

A. Cost Thresholds and Procurement Methods (federally-funded procurement)

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

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Guidance"), the District shall use a procurement method that (1) at a minimum, is consistent with the Uniform Guidance (including all federally-authorized exemptions from the normal requirements of the Uniform Guidance), as summarized at a general level in the following chart; and (2) implements any additional mandatory procurement procedures/requirements established by state law or by the District that are not in conflict with the Uniform Guidance:

{Editor's Note: The Uniform Guidance for procurement using federal funds requires each school district to establish a micro-purchase threshold and a simplified acquisition threshold that are "based on internal controls, an evaluation of risk, and its documented procurement procedures." IMPORTANT: These thresholds should be set in consultation with the school district's auditor. Locally-determined thresholds cannot exceed the amounts permitted under the Uniform Guidance. School districts should be aware that although the Uniform Guidance does include a procedure under which a school district may establish a "micro-purchase" threshold that is greater than \$10,000 in some circumstances, the chart below does not reflect that option as very few school districts are likely to find it necessary or beneficial to pursue that option. When establishing/re-evaluating the local "micro-purchase" threshold, a factor to consider is the district's asset capitalization thresholds (see PRG topic 683, "Asset Management"). There are advantages to coordinating local capitalization thresholds and the local "micro-purchase" threshold. This is because, under the Uniform Guidance, an item that has a useful life of more than one year and a per-unit acquisition cost at or above the lesser of \$10,000 or the applicable local capitalization threshold will generally be considered "equipment" rather than "supplies," and the distinction between "equipment" and "supplies" has an impact on both procurement procedures and asset use, ownership, and disposition under the Uniform Guidance.}

| Cost Threshold | Allowable Federal Procurement Methods |
|---|---|
| Micro-purchases: In aggregate amount, the purchase does not exceed \$10,000 , except that for construction projects subject to the federal Davis-Bacon Act, an amount that does not exceed \$2,000 | "Micro-purchases" of supplies or services (as defined in the federal regulations) 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: Director of Business Services Where multiple qualified suppliers of the same or materially interchangeable products/services 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 to the extent practical. A purchase at this micro-purchase tier may also be documented as a noncompetitive purchase there are grounds for doing so as specified under the Uniform Guidance. |
| Simplified Acquisition: Unless the purchase qualifies as a "micro-purchase," any purchase | Such purchases may be based on any of the following: 1. Multiple price or rate quotations obtained in advance from qualified sources, as further detailed in District procurement procedures; <i>{Editor's Note: Ensure that the district has</i> |

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| <p>that does not exceed \$250,000, which serves as the District's federal "simplified acquisition threshold"</p> | <p><i>procedures that define expectations for obtaining price/rate quotations. For an example, see PRG 672.1 Sample Rule 1.}</i></p> <ol style="list-style-type: none"> 2. Noncompetitive ("single source") procurement to the extent there are grounds for doing so as specified under the Uniform Guidance; or 3. The District's discretionary election to use a more formal competitive bid or request for proposal process. <p>The Director of Business Services is responsible for ensuring that the District evaluates the appropriateness of making any purchase at this tier on the basis of life-cycle cost estimates as further detailed in District internal controls. <i>{Editor's Note: See PRG 672.1 Sample Rule 1 for provisions that address the state statutory requirements regarding life-cycle cost estimates.}</i></p> |
| <p>Formal Procurement:</p> <p>A purchase in an amount that exceeds \$250,000</p> | <p>Such purchases may be based on any of the following:</p> <ol style="list-style-type: none"> 1. Sealed bids using procedures that comply with the Uniform Guidance, including that the invitation for bids must be publicly advertised; 2. Formal competitive proposals using procedures that comply with the Uniform Guidance, including that there is public notice of the request for proposals; or 3. Noncompetitive procurement to the extent there are grounds for doing so as specified under the federal Uniform Guidance. <p>In addition:</p> <ol style="list-style-type: none"> 1. 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). 2. The Director of Business Services is responsible for ensuring that the District evaluates the appropriateness of making any purchase at this tier on the basis of life-cycle cost estimates as further detailed in District internal controls. <i>{Editor's Note: See PRG 672.1 Sample Rule 1 for provisions that address the state statutory requirements regarding life-cycle cost estimates.}</i> 3. |

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

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additional details, requirements, restrictions, exemptions, 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.

{Editor's Note: PRG 672.1 Sample Rule 1 could be part of such additional procedures.}

B. Federally-Authorized Grounds for Noncompetitive Procurement

In connection with purchases made using, in whole or in part, federal funds that are subject to the requirements of the Uniform Guidance, noncompetitive procurement may be used only if the Director of Business Services determines and documents that one or more of the following circumstances apply:

1. The procurement involves the acquisition of property or services, the aggregate dollar amount of which does not exceed the District's micro-purchase threshold for purchases made, in whole or in part, using federal funds.
2. The item is available only from a single source.
3. A public exigency or emergency exists and does not permit a delay resulting from publicizing a competitive solicitation.
4. The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the District.
5. After solicitation of a number of sources, the District determines that competition is inadequate.

Methods of Procurement for Purchases that do NOT Involve the Use of Federal Funds Subject to the Uniform Guidance Regulations

A. Cost Thresholds and Procurement Methods (non-federal procurement)

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 Board directs its authorized employee and non-employee procurement agents to utilize the following procurement methods:

{Editor's Note: As a default within this sample policy, the cost thresholds in the next table mirror the federal funds cost thresholds in the previous table. As a general rule, a school district may use cost thresholds for state or locally-funded procurement that are equal to or greater than the

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corresponding cost thresholds that the district establishes for purchases made, in whole or in part, using federal funding. A district should seek legal counsel prior to establishing any cost thresholds for non-federal procurement that would be lower in dollar value than the corresponding thresholds that the district establishes for federal procurement. Assuming equivalent purchases, requiring more formal and rigorous procurement methods for non-federal procurement (i.e., purchase made using revenues obtained from non-federal sources) may violate the Uniform Guidance for federally-funded procurement.}

| Cost Threshold | District-Authorized Procurement Method(s) |
|---|--|
| A purchase that, in an aggregate amount, does not exceed the dollar amount of the District's non-construction "micro-purchase threshold," for federal procurement (see above) | <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: <u>Director of Business Services</u>.</p> <p>A purchase at this tier may also be pursued as a noncompetitive purchase to the extent there are grounds for doing so as specified under the federal Uniform Guidance or as separately authorized or approved by the Board.</p> |
| Unless the purchase qualifies as a "micro-purchase" under the previous tier, a purchase that does not exceed the District's "simplified acquisition threshold" for federal procurement (see above) | <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; <i>{Editor's Note: Ensure that the district has procedures that define expectations for obtaining price/rate quotations. For an example, see PRG 672.1 Sample Rule 1.}</i> 2. Noncompetitive ("single source") procurement to the extent there are grounds for doing so as specified under the federal Uniform Guidance or as separately authorized or approved by the Board; or 3. The District's discretionary election to use a more formal competitive bid or request for proposal process. <p>The <u>Director of Business Services</u> is responsible for ensuring that the District evaluates the appropriateness of making any purchase at this tier on the basis of life-cycle cost estimates <u>as further detailed in District internal controls</u>. <i>{Editor's Note: See PRG 672.1 Sample Rule 1 for provisions that address the state statutory requirements regarding life-cycle cost estimates.}</i></p> |
| Purchases of an amount that exceeds the District's "simplified acquisition | <i>{Editor's Note: For greater flexibility in the procurement methods used at this tier, a district could choose to replace the provisions shown below with the following alternative, "For non-federal procurement at this cost tier, the District follows the requirements</i> |

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| threshold" for federal procurement | <p><i>of the preceding tier (immediately above) except as otherwise required by law."}</i></p> <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. Noncompetitive procurement to the extent there are grounds for doing so as specified under the federal Uniform Guidance or as separately authorized or approved by the Board. <p>The <u>Director of Business Services</u> is responsible for ensuring that the District evaluates the appropriateness of making any purchase at this tier on the basis of life-cycle cost estimates <u>as further detailed in District internal controls</u>. {Editor's Note: See PRG 672.1 Sample Rule 1 for provisions that address the state statutory requirements regarding life-cycle cost estimates.}</p> |
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B. Noncompetitive Procurement (for non-federal procurement)

The Board authorizes noncompetitive procurement for **non-federal** purchases if at least one of the following justifications has been verified and documented by the Director of Business Services:

1. Any of the circumstances is present under which noncompetitive procurement would be allowable under the federal Uniform Guidance (see list above).
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 price quotations, 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.

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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.

C. Procurement of Professional Services (for non-federal procurement)

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, and the following apply to the procurement of such services:

1. Except as otherwise required by law, the Board's direct approval of a contract or service agreement for professional services, or of any disbursements for such services, may be used to satisfy the requirements of this policy as it relates to procurement that is **not** subject to the federal Uniform Guidance.
2. To minimize the potential for disruption that might occur if the Board were to decline to approve a proposed/recommended contract, service agreement, or disbursement for such services, the Board expects the District Administrator to work jointly with the Board to define:
 - a. A situation-appropriate procurement or selection process for such services, in at least those situations where (1) there is more than one reasonably available source for the service(s); (2) the known or reasonably projected aggregate annual costs for the service(s) either are expected to necessitate a Board-approved amendment to the current year's annual budget or, in any fiscal year, are likely to exceed the District's micro-purchase threshold for non-construction federal procurement; and (3) there are no emergency or other exigent circumstances that reasonably require the administration to use an administratively-defined expedited process;
 - b. The scope of any current or potential future professional services the Board is being asked to approve or authorize; and
 - c. 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.

Legal References:

Wisconsin Statutes

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| Section 16.73 | [cooperative purchasing] |
| Section 77.54(9a) | [state sales tax exemption for purchases by school districts; see also section 77.54(9m)] |
| 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] <i>{Editor's Note: This statute applies only to common and union high school districts. Unified school districts should delete this legal reference.}</i> |
| 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. §200.214 | [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, veteran-owned businesses, and labor surplus area firms] |
| 2 C.F.R. §200.322 | [domestic preferences for federal procurements] |
| 2 C.F.R. §200.323 | [procurement of products containing recovered materials and recycled or recyclable content, that can be reused, and that are energy and water efficient; compliance with the federal Solid Waste |

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| 2 C.F.R. §200.324 | Disposal Act, as amended by the Resource Conservation and Recovery Act] |
| 2 C.F.R. §200.326 | [cost or price analysis requirements for procurement in excess of the simplified acquisition threshold] |
| 2 C.F.R. §200.327 | [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. App. II to Pt 200 | [contract provisions for non-federal entity contracts under federal awards] |
| 2 C.F.R. Part 3474 | [contract provisions for non-federal entity contracts under federal awards] |
| 2 C.F.R. Part 400 | [additional federal regulations applicable to awards administered by the U.S. Department of Education] |
| 7 C.F.R. Parts 210 to 226 | [additional federal regulations applicable to awards administered by the U.S. Department of Agriculture] |
| 34 C.F.R. §75.135 | [child nutrition program regulations; including allowances of geographic preference in the procurement of certain unprocessed locally grown or locally raised agricultural products and contracting for the participation of food service management company in connection with school meal programs] |
| 48 C.F.R. §2.101 | [U.S. Department of Education direct grant competition exception for proposed implementation sites, implementation partners, or service providers] |
| | [Federal Acquisition Regulation definitions] <i>{Editor's Note: Adjustments to the federal micro-purchase and simplified acquisition thresholds are generally reflected in this regulation, although the federal Office of Management and Budget sometimes announces and implements adjustments to the thresholds prior to the actual modification of the regulation.}</i> |

Cross References:

[Insert appropriate cross references to the policy as applicable to your district.]

Adoption Date: