

No. 634

SECTION: Finances

TITLE: Procurement
(Federal Programs)

CATASAUQUA AREA SCHOOL DISTRICT

ADOPTED: April 11, 2017

	634 – PROCUREMENT (FEDERAL PROGRAMS)	1
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1. Purpose	This Policy is intended to integrate standard District purchasing procedures with additional requirements applicable to procurements that are subject to the federal Uniform Grant Guidance regulations and/or U.S. Department of Agriculture (USDA) regulations governing school food service programs. The District maintains the purchasing procedures set forth in this Policy, in accordance with federal and state laws, regulations, and Board policy.	3
2 CFR §§ 210.319(c), 210.320		4
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	The Board of School Directors has outlined standard District purchasing responsibility, methods of purchasing, price quotations, and bid requirements in the following Board policies and their accompanying administrative regulations or procedures:	10
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Policies 610, 612, 613	Policy 610 — Purchases Subject to Bid/Quotation	14
	Policy 612 — Purchases Budgeted and Purchases Not Budgeted	15
	Policy 613 — Cooperative Purchasing	16
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2. Definitions	This Policy supplements those Policies and administrative regulations and procedures for purchases in connection with a federal award.	19
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	The following words and phrases, when used in this policy, shall have the meaning given to them below:	23
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2 CFR § 200.38	Coordinator — means the Coordinator of Instructional Technology & Federal Programs, except that with respect to federal awards relating to the District’s food service program, the term shall mean the Food Service Director.	26
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	Federal award — means (1) federal financial assistance that the District receives directly from a federal awarding agency or indirectly from a pass-through entity, (2) a cost-reimbursement contract under the Federal Acquisitions Regulations that the District receives directly from a federal awarding agency or indirectly from a pass-through entity, and (3) the instrument setting forth the terms and conditions of the Federal award, including the grant agreement, cooperative agreement, other agreement for assistance under 2 CFR § 200.40(b) (<i>i.e.</i> , loans, loan guarantees, interest subsidies, and insurance), or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.	30
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3. Overview

When a request for purchase of equipment, supplies or services in connection with a federal award has been submitted and approved as described in Part 4 of this Policy, the procurement method to be used will be determined based on the total cost of the purchase as further outlined in Part 5 of this Policy. This Policy outlines how the cost thresholds for determining when the quote or formal bidding procedures that are required by state law as reflected in Policy 610 must be modified when making purchases for federally funded purposes to which the Uniform Grant Guidance or USDA regulations apply, so as to comply with both state and federal requirements. The District must also comply with the applicable federal requirements described in Part 6 of this Policy for all purchases in connection with a federal award. At each point where requirements for food service-related procurement under USDA regulations differ, a note will refer to the Food Service Program Notes in Part 7 of this Policy.

Final determination of which purchasing procedures are to be applied is delegated to the Superintendent (after consultation with the Business Supervisor), under the authority of the Board of School Directors.

4. Standard Purchase Request Process

The following rules and procedures shall apply to all purchases in connection with a federal award:

The District shall use purchase orders for purchase requests in accordance with the applicable purchase method. The District shall use paper purchasing records, which are pre-numbered and are accessible to designated purchasing staff in the District.

Purchase requests by an employee must be submitted to the building principal or immediate supervisor. Purchase of all budgeted items or items approved by a principal or supervisor must be initiated by use of a purchase order submitted for approval to the Superintendent, followed by the Business Supervisor. In the absence of either the Superintendent or the Business Supervisor, the other officer may issue the final purchase order on his/her own authority if the need is exigent and the price does not exceed \$3,500.00.

Purchase orders and requisitions shall contain information including, but not limited to:

1. Description of the services to be performed or the goods to be delivered.
2. Location where services will be performed or goods will be delivered.
3. Appropriate dates of service or delivery.

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<p>2 CFR § 200.326</p> <p>5. Procurement Methods</p> <p>2 CFR § 200.320(a); 200.67; 48 CFR Subpart 2.1</p>	<p>Documentation on purchase orders and requisitions shall be maintained in accordance with the District’s records management and retention policies and procedures.</p> <p>Contracts shall be reviewed by the District Solicitor prior to submission to the Board of School Directors for approval.</p> <p>Contracts to which the Uniform Grant Guidance apply must contain the applicable provisions described in Appendix II to 2 CFR Part 200 (Contract Provisions for Non-Federal Entity Contracts Under Federal Awards).</p> <p><i>See the Food Service Program Notes in Part 7 of this Policy for specific clauses required by USDA regulations to be included in cost reimbursable procurement contracts.</i></p> <p>For all purchases in connection with a federal award, the District shall employ the applicable procurement method described in this Part 5.</p> <p>A. <i>Micro-Purchases Not Requiring Quotes or Bids (generally up to \$3,500).</i></p> <p>For purposes of this Policy, the term “micro-purchase” means a purchase of equipment, supplies, or services for use in federally funded programs using simplified acquisition procedures, the aggregate amount of which does not exceed a base amount of three thousand five hundred dollars (\$3,500.00). The micro-purchase dollar threshold is adjusted periodically by the federal government, and the threshold most recently established and published in the Federal Register shall apply if other than three thousand five hundred dollars (\$3,500.00).</p> <p><i>Note:</i> The micro-purchase maximum for federal purposes is <i>lower</i> than the amount below which the School Code allows purchase for nonfederal purposes to be made without obtaining at least three (3) written or telephonic quotes or using formal competitive bidding.</p> <p>The micro-purchase method is used in order to expedite the completion of the District’s lowest dollar small purchase transactions and minimize the associated administrative burden and cost. Procurement by micro-purchase is the acquisition of equipment, supplies, or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold.</p> <p>To the extent practicable, the District shall distribute micro-purchases equitably among qualified suppliers when the same or materially interchangeable products are identified and such suppliers offer effectively equivalent rates, prices, and other terms. The Business Supervisor will be responsible to determine the equitable distribution of micro-purchases.</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p>
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Micro-purchases may be awarded without soliciting competitive quotations if the District considers the price to be reasonable. The District will maintain evidence of this reasonableness in the records of all micro-purchases. For this purpose, the term “reasonable” means that sound business practices were followed and the purchase is comparable to market prices for the geographic area. Such determinations of reasonableness may include comparison of the price to previous purchases of the same item or comparison of the price of items similar to the item being purchased.

Even if the cost of a purchase qualifies it as a micro-purchase, bidding or small purchase procedures may be used optionally when those procedures may result in cost savings.

B. *Small Purchase Procedures (generally between \$3,500 and \$19,700).*

2 CFR §
200.320(b)

For purposes of this Policy, the term “small purchase procedures” means those relatively simple and informal procurement methods for securing equipment, services, or supplies that cost more than the amount qualifying as a micro-purchase and do not cost nineteen thousand seven hundred dollars (\$19,700.00) or more. Small purchase procedures cannot be used for purchases of equipment or supplies or for construction, repair or maintenance services costing nineteen thousand seven hundred dollars (\$19,700.00) or more because the School Code requires formal competitive bidding at that level of cost).

School Code §§
751(a.2), 807.1(a.2)

The base amount at which bidding is required under state law is adjusted for inflation annually, and the amount most recently established and published in the Pennsylvania Bulletin shall apply if other than nineteen thousand seven hundred dollars (\$19,700.00).

School Code § 120

Because state law does not require bidding for the purchase of services other than construction, maintenance, or repairs on school facilities, regardless of total cost, small purchase procedures, including a request for proposal (RFP) procedure, may be used for procurement of such other services except when the estimated total cost will be at or over the federal threshold at which formal competitive bidding is required, currently one hundred fifty thousand dollars (\$150,000.00).

Policy 610

If small purchase procedures are used, written or telephonic price or rate quotations shall be obtained from at least three (3) qualified sources, and records of quotes shall be maintained as provided in Policy 610.

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C. *Formal Competitive Bidding (generally \$19,700 or more).*

School Code §§
751(a.2), 807.1(a.2)

For purchases of equipment or supplies, or of services for construction, maintenance, or repairs of school facilities, sealed competitive bids are publicly solicited through advertisements and awarded to the lowest responsive and responsible bidder as provided in Policy 610 when the total cost is estimated to be nineteen thousand seven hundred dollars (\$19,700.00) or more. Bids shall be opened publicly at the time and place prescribed in the invitation for bids.

School Code § 120

The base amount at which bidding is required under state law is adjusted for inflation annually, and the amount most recently established and published in the Pennsylvania Bulletin shall apply if other than nineteen thousand seven hundred dollars (\$19,700.00).

Note: The amount at which formal competitive bidding is required by federal regulations is much higher than the base amount at which the School Code requires competitive bidding. Therefore, the lower base amount specified by the School Code, as annually adjusted, is used to determine when bidding will be used for purchases of equipment or supplies, or for obtaining services for construction, maintenance, or repairs on school facilities.

2 CFR §
200.320(c)

Pennsylvania law does not require bidding for the purchase of services other than construction, maintenance, or repairs on school facilities, regardless of total cost. For procurement of such other services for federally funded purposes to which the Uniform Grant Guidance applies, formal competitive bidding must be used when the estimated total cost will be at or over the federal threshold, currently one hundred fifty thousand dollars (\$150,000.00).

48 CFR Subpart
2.1

The federal competitive bidding dollar threshold is adjusted periodically by the federal government, and the threshold most recently established and published in the Federal Register shall apply if other than one hundred fifty thousand dollars (\$150,000.00).

2 CFR
§ 200.320(c)(2)(iv),
(v)

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 experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason.

See the Food Service Program Notes in Part 7 of this Policy for referenc to requirements regarding contracts with food service management companies and contractors of pre-plated meals.

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D. *Competitive Proposals.*

Pennsylvania law does not require public school entities to solicit competitive bids for services other than construction, repairs, or maintenance of school facilities, for which competitive bidding is required if the cost will be a base amount of nineteen thousand seven hundred dollars (\$19,700.00) or more. Pennsylvania law allows competitive proposals relating to work on facilities in lieu of bidding only in the context of guaranteed energy savings contracts.

2 CFR §
200.320(d)(5)

Federal regulations allow the use of competitive proposals as an alternative when formal bidding would otherwise be required only to procure architectural and engineering services. Other types of services for federally funded purposes to which the Uniform Grant Guidance applies, professional or otherwise, must be procured using competitive bidding when the cost would meet or exceed the federal threshold for competitive bidding, currently one hundred fifty thousand dollars (\$150,000.00).

In the case of services other than for construction, repairs, or maintenance of school facilities costing less than that threshold, the District may use small purchase procedures or micro-purchase procedures as applicable based on total cost. A request for proposal (RFP) process can also meet or exceed the small purchase competition requirements under state law and Policy 610 for the acquisition of services other than for construction, repairs, or maintenance of school facilities, and can be used if the total cost will be less than the federal threshold (currently \$150,000.00).

2 CFR §
200.320(d)

When permitted, the technique of competitive proposals is normally conducted with more than one (1) source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. Competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The District shall comply with other applicable state and federal law and regulations, Board policy, and administrative regulations regarding purchasing; the District may consult with the Solicitor or other qualified counsel in determining the required process for purchasing through competitive proposals when necessary.

If the competitive proposals method is used, the following requirements apply:

1. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.

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- 2. Proposals must be solicited from an adequate number of qualified sources.
- 3. Contracts must be awarded to the responsible applicant whose proposal is most advantageous to the program, with price and other factors considered.

Competitive proposals shall be evaluated by the Coordinator, based on factors including, but not limited to:

- 1. Cost.
- 2. Experience of the contractor.
- 3. Availability.
- 4. Personnel qualifications.
- 5. Financial stability.
- 6. Project management expertise.
- 7. Understanding of District needs.

Evaluations shall be completed in a timely manner, documented, and reviewed by the Superintendent and the Business Supervisor, before final approval by the Board of School Directors.

A cost or price analysis will be performed for competitive proposals when required under Part 6A of this Policy.

E. *Noncompetitive Proposals (Sole Sourcing).*

2 CFR § 200.320(f)

For purposes of this Policy, the term “procurement by noncompetitive proposals” means procurement through solicitation of a proposal from only one (1) source and may be used only when one or more of the following circumstances apply:

- 1. The item is available only from a single source.
- 2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. For this purpose, a “public exigency or emergency” exists whenever the time required for the Board of School Directors to act in accordance with regular procedures would endanger life or property or threaten continuance of existing school classes.
- 3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District.
- 4. After solicitation of a number of sources, the District determines the competition is inadequate.

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In addition to standard procurement policy and procedures, the District will document the grounds for using the noncompetitive method in lieu of an otherwise required competitive method of procurement, which may include written confirmation from the contractor as the sole source of the item. Documentation must be submitted to and maintained by the Business Supervisor.

All noncompetitive proposals must ultimately be approved by the Board of School Directors. The District may utilize legal advice from the Solicitor regarding noncompetitive proposals.

A cost or price analysis will be performed for noncompetitive proposals when required under Part 6A of this Policy.

6. Additional Federal Requirements

The following additional rules and procedures shall be followed in all purchases in connection with a federal award, as applicable:

A. *Contract/Price Analysis.*

2 CFR § 200.323(a)

The District shall perform a cost or price analysis in connection with every procurement action in excess of the federal threshold (currently \$150,000.00), including contract modifications.

For purposes of this policy, a “cost analysis” generally means 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; however, the Business Supervisor and/or the Coordinator must come to an independent estimate prior to receiving bids or proposals. As part of the analysis, the Business Supervisor and/or the Coordinator shall follow established business practices which may include evaluation of similar prior procurements and a review process.

2 CFR § 200.323(b)

The District must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where a cost analysis is performed. To establish a fair and reasonable profit, consideration must be 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.

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B. *Purchase Cards.*

The District approves the use of procurement cards for permissible purchases by designated employees to improve the efficiency of purchasing activities, reduce processing expenses, improve controls for small-dollar purchases, and streamline contractor payment.

Procurement cards may be used for purchases under federal programs. The use of procurement cards is subject to Board policies and established administrative regulations.

C. *Full and Open Competition.*

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of 2 CFR § 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids, or requests for proposals, must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business.
2. Requiring unnecessary experience and excessive bonding.
3. Noncompetitive pricing practices between firms or between affiliated companies.
4. Noncompetitive contracts to consultants that are on retainer contracts.
5. Organizational conflicts of interest.
6. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement.
7. Any arbitrary action in the procurement process.

D. *Small and Minority Businesses, Women’s Business Enterprises, Labor Surplus Area Firms.*

The District must take necessary affirmative steps to assure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

Policy 626

2 CFR § 200.319(a)

2 CFR § 200.321

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1. Placing qualified small and minority business and women’s business enterprises on solicitation lists.
2. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources.
3. Dividing total purchasing requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business and women’s business enterprises.
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women’s business enterprises.
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce.
6. Requiring the prime contractor, if subcontracts are let, to take the affirmative steps listed above.

E. *Geographical Preferences Prohibited.*

The District must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

See the Food Service Program Notes in Part 7 of this Policy for permissibility of geographic preferences and “Buy American” practices in purchasing certain food products.

F. *Prequalified Lists.*

The District must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the District must not preclude potential bidders from qualifying during the solicitation period.

See the Food Service Program Notes in Part 7 of this Policy for reference to state requirements regarding contracts with food service management companies and contractors of pre-plated meals.

2 CFR
§ 200.319(b)

2 CFR §
200.319(d)

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<p>2 CFR § 200.319(c)</p>	<p>G. <i>Solicitation Language.</i></p> <p>The District must ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must 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, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.</p> <p>When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated. The solicitation must identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.</p>	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22
<p>2 CFR § 200.318(d)</p>	<p>H. <i>Other Considerations to Obtain a More Economical Purchase.</i></p> <p>The District must avoid the acquisition of unnecessary or duplicative items. Additionally, consideration must be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis must be made of leases versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.</p>	23 24 25 26 27 28 29 30 31
<p>Policy 633</p>	<p>These considerations are given as part of the process to determine the allowability of each purchase made with federal funds. Such considerations are accessible in Policy 633 — Allowability of Costs (Federal Programs).</p>	32 33 34 35 36
<p>2 CFR § 200.318(e); School Code § 521; 53 Pa. Cons. Stat. ch. 23; 62 Pa. Cons. Stat. ch. 19; Policy 613</p>	<p>I. <i>Use of Intergovernmental Agreement and Cooperative Purchasing.</i></p> <p>To foster greater economy and efficiency, the District shall enter into state and local intergovernmental agreements where appropriate for cooperative purchasing or use of common or shared goods and services, as permitted by the Intergovernmental Cooperation Act and the Commonwealth Procurement Code.</p> <p>When procuring supplies or services for federally funded purposes to which the Uniform Grant Guidance applies, the District shall verify that the organization conducting the procurement pursuant to such agreements complies with the applicable requirements and standards of the Uniform Grant Guidance as outlined in this Policy.</p>	37 38 39 40 41 42 43 44 45 46 47 48 49

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	J. <i>Use of Federal Excess and Surplus Property.</i>	3
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2 CFR § 200.318(f)	The District shall consider the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.	5
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	K. <i>Debarment and Suspension.</i>	9
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2 CFR § 200.318(h)	The District awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.	11
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2 CFR Part 200 Appendix II; 2 CFR §§ 180.220, 180.300, 200.213	The District may not subcontract with or award subgrants to any person or company who is debarred or suspended. For all contracts over twenty-five thousand dollars (\$25,000.00) the District shall verify that the contractor with whom the District intends to do business is not excluded or disqualified.	17
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	All successful contractors must provide written certification that they have not been suspended or debarred from federal projects. The Coordinator will be responsible for verification. Such verification may include accessing the online federal System for Award Management (SAM) to determine whether any relevant party is subject to any suspension or debarment restrictions.	23
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	L. <i>Maintenance of Procurement Records.</i>	30
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2 CFR § 200.318(i)	The District must maintain 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, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred.	32
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	Maintenance of records of procurement is subject to Board policies and established administrative regulations.	39
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	M. <i>Time and Materials Contracts.</i>	42
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2 CFR § 200.318(j)	The District may use 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.	44
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For purposes of this Policy, the term “time and materials type contract” means a contract whose cost to the District 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.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the District must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

N. *Settlement of Issues Arising Out of Procurements.*

The District alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the District of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

O. *Protest Procedures to Resolve Disputes.*

The District maintains protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency. Protest procedures will be acted on in accordance with current state law and regulations, established District administrative regulations, and the advice of the District Solicitor.

The following notes should be considered in connection with purchases in the District’s food service program:

A. *Exemption from Bidding for Perishable Food Items.*

The School Code exempts purchases of perishable food items from bidding requirements. Bidding for perishable food items is required only if the cost would be at or over the federal threshold at which formal competitive bidding is required (currently \$150,000.00). Small purchase procedures may be used for purchases below the federal threshold; micro-purchase procedures for purchases below three thousand five hundred dollars (\$3,500.00). Use of bidding should be considered as an option if it is feasible and likely to result in cost savings.

2 CFR
§ 200.318(k)

Policy 610

7. Food Service
Program Notes

School Code
§ 504(d)

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B. *Geographic Preferences.*

7 CFR §§
210.21(g),
215.14a(e),
220.16(f)

The District is permitted to apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When a geographic preference is applied, the District has discretion to determine the local area to which the geographic preference option will be applied.

For purposes of this Policy, the term “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two (2) or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

C. *Buy American.*

7 CFR §§
210.21(d),
220.16(d)

The District shall purchase, to the maximum extent practicable, domestic commodities or products for food service purposes. For purposes of this Policy, the term “domestic commodity or product” means:

1. An agricultural commodity that is produced in the United States; and
2. A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

D. *Mandatory Contract Clauses.*

7 CFR §§
210.21(f),
215.14a(d),
220.16(e)

The following provisions shall be included in all cost reimbursable contracts for food services purchases, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts:

1. Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates, and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the school food authority;

2. Either—

(a) The contractor must separately identify for each cost submitted for payment to the school food authority the amount of that cost that is allowable (can be paid from the nonprofit school food service account) and the amount that is unallowable (cannot be paid from the nonprofit school food service account); or

(b) The contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification;

3. The contractor’s determination of its allowable costs must be made in compliance with the applicable departmental and program regulations and Office of Management and Budget cost circulars;

4. The contractor must identify the amount of each discount, rebate, and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the state agency, the school food authority may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually;

5. The contractor must identify the method by which it will report discounts, rebates, and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract; and

6. The contractor must maintain documentation of costs and discounts, rebates, and other applicable credits, and must furnish such documentation upon request to the school food authority, the state agency, or the U.S. Department of Agriculture.

E. *Contracts with Food Service Management Companies.*

7 CFR §§ 210.16, 210.19, 210.21, 215.14a, 220.16

Procedures for selecting and contracting with a food service management company (FSMC) shall comply with guidance provided by the Pennsylvania Department of Education, Division of Food and Nutrition, including standard forms, procedures, and timelines for solicitation, selection, and approval of proposals and contracts.

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7 CFR §§ 210.16,
210.19, 210.21,
220.16

F. *Pre-Plated Meals.*

Procedures for selecting and contracting with contractors of pre-plated meals shall comply with guidance provided by the Pennsylvania Department of Education, Division of Food and Nutrition, including standard forms, procedures, and timelines for solicitation, selection, and approval of proposals and contracts..

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