

## **Regulation Code: DJ-R Purchasing/Contracting**

Procurement of all supplies, materials and equipment ("Goods"), procurement of services for the erection, construction, alteration or repair of any buildings ("Construction and Repair"), and the procurement of other services ("Other Services") shall be in accordance with all applicable laws, Board policies and good procurement practices.

The following factors shall be considered in each transaction

1. Each item will be selected on the basis that it most effectively meets the needs of the school system.
2. Each item should represent the best value for each dollar expended.
3. Care should be given to making certain that small, minority-owned and women-owned businesses as well as other responsible suppliers have an opportunity to participate in accordance with Board Policy DJA.<sup>1</sup>
4. Consideration should be given to purchasing recycled materials.

### **A. Responsibilities**

Compliance with these regulations requires a team effort between the Procurement Services Department, the various CMS departments that make purchases ("Submitting Departments"), the Minority, Women, Small Business Enterprise Program ("M/W/SBE Department") and the Budget Department.

#### **1. Procurement Services Department**

The Procurement Services Department is ultimately responsible for all purchases of Goods and Other Services. No purchase order shall be issued for the procurement of Goods or Other Services unless a Procurement Services Department staff member confirms compliance with these regulations and Regulations DJA-R, "Minority, Women, Small Business Enterprises Program."

#### **2. Building Services Department**

The Building Services Department is ultimately responsible for Construction and Repair. No purchase order shall be issued for the procurement of Construction and Repair Services unless a Building Services Department staff member confirms compliance with these regulations.

### 3. M/W/SBE Department

The M/W/SBE Department shall review all proposed purchases greater than or equal to \$5,000 and shall work with the Submitting Departments and the Procurement Services Department to ensure compliance with Regulation DJA-R. All requisitions greater than or equal to \$5,000 shall be forwarded to the M/W/SBE Department for consideration of appropriate outreach opportunity. The M/W/SBE Department will notify the Procurement Services Department and the Submitting Department of possible vendors to be included in the applicable procurement process. The M/W/SBE Department shall also be responsible for the outreach efforts described in Section 7 of Regulation DJA-R.

### 4. Submitting Departments.

There may be circumstances where the Submitting Departments share the responsibility for compliance with applicable regulations for purchases initiated from their departments. Submitting Departments, with the advance approval of the Procurement Services Department, may handling the procurement of certain Goods or Other Services with their own staff after agreeing in advance with the Procurement Services Department and M/W/SBE Department upon a mutually acceptable procurement method, including appropriate M/W/SBE outreach efforts. Most commonly, this would be in circumstances where informal bids (e.g. quotes) are obtained or competition is appropriately waived in accordance with this regulation. If the Submitting Department (with the approval of the Procurement Services Department) handles the applicable procurement procedures for Goods or Other Services in accordance with these regulations, then the Submitting Department shall provide the Procurement Services Department and M/W/SBE Department with written evidence of compliance with these regulations. Alternatively, the Submitting Department may request the Procurement Services Department to handle needed purchases of Goods or Other Services on the Submitting Department's behalf.

### 5. All Departments when Federal Funds are received.

All Departments listed above will work collaboratively to ensure Federal Fund Compliance in accordance to the Uniform Guidance Requirements. The Guidance Requirement Statement is listed below:

"Contracts funded with federal grant or loan funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards, including those under the Uniform Guidance (2 C.F.R. Part 200)."

Supplemental procurement regulations applicable for purchases funded with federal funds are attached hereto as **Appendix 1.**

A chart summarizing applicable competitive requirements for the purchases funded with federal funds is attached here to as **Appendix 2.**

## **B. Advance Planning**

Purchases need to be planned in advance in order to provide sufficient time for these regulations and Regulation DJA-R to be effectively implemented. Thus, it is expected that:

1. Representatives of the Procurement Services Department, Submitting Departments, and M/W/SBE Department should regularly meet to identify planned purchases and a schedule for the planned purchases.

2. Submitting Department shall submit requisitions in a prompt and timely manner such that they are received by the Procurement Services Department sufficiently in advance of the need for the applicable procurement procedures to be implemented. Submitting Departments shall endeavor to have requisitions submitted to the Procurement Services Department at least 30 days in advance of the need for the purchase order to be issued, although it is acknowledged that in some circumstances it will not be reasonably possible to have requisitions submitted this far in advance.

3. The Procurement Services Department shall handle procurements in a prompt and timely manner. The Procurement Services Department shall endeavor to complete all procurements within two weeks of submittal of a requisition to the Procurement Services Department, although it is acknowledged that in some circumstances additional time will be required.

4. The Budget Department shall endeavor to have monies budgeted and available sufficiently in advance to allow compliance with these regulations.

## **C. Good Procurement Practices**

By way of example, the following procedures for procurements on behalf of CMS shall be followed:

### **1. Goods**

a. Formal Bidding Procedures: Formal bidding procedures prescribed in North Carolina General Statute ([N.C.G.S. §143-129](#)) must be followed for the purchase of Goods that require an estimated expenditure of \$90,000 or more (unless one of the exceptions stated in [N.C.G.S. §143-129](#) is applicable).

b. Informal Bidding Procedures: Informal bidding procedures are prescribed in [N.C.G.S. §143-131](#) for the purchase of goods that involve an estimated expenditure of \$30,000 or more but less than \$90,000. At a minimum, there should be good faith efforts to obtain at least three written quotes.

## 2. Construction and Repair

a. Formal Bidding Procedures: Formal bidding procedures prescribed in [N.C.G.S. §143-129](#) must be followed for construction or repair work that requires an estimated expenditure of \$500,000 or more (unless one of the exceptions stated in [N.C.G.S. §143-129](#) is applicable).

b. Informal bidding procedures: Informal bidding procedures are prescribed in [N.C.G.S. §143-131](#) for construction and repair contracts involving an estimated expenditure of \$30,000 or more but less than \$500,000. At a minimum, there should be good faith efforts to obtain at least three written quotes. Notification of at least one M/W/SBE vendor, when available, using one or more of the databases referenced in Section 4 of Regulation DJA-R.

## 3. Other Services

Procurement of Other Services should generally be obtained through some form of competitive process satisfactory to the Executive Director of Procurement Services, such as obtaining written quotes or negotiation. Notwithstanding the above, procurement of certain professional architectural, engineering and surveying services must be in accordance with [North Carolina General Statute §143-64.31-64.34](#). Generally, these provisions require that firms shall be selected based on demonstrated competence and qualification without regard to a fee other than unit-price information and thereafter that a contract be negotiated. Likewise, when procuring accounting, appraisal, financial, legal, technology support or other professional services for CMS, firms should be selected on the basis of demonstrated competence and qualification and then a contract negotiated with the selected firm or firms.

## 4. Other Requirements:

a. A chart summarizing applicable competitive procurement procedures is set forth below as Exhibit 1.

b. There are some circumstances where competitive procurement procedures may be waived by the Executive Director of Procurement Services. Examples of exceptions to competitive procurement methods are set forth below as Exhibit 2.

c. In addition, the rules established in Policy DJA, Regulation DJA-R, "Minority, Women, Small Business Enterprise Program," and its corresponding regulation, DJA-R, shall be followed.

d. All purchase orders and contracts shall be pre-audited as required by state law.

e. Purchase orders and contracts shall not be divided in order to keep them less than the various dollar thresholds referenced below, thereby avoiding the applicable procurement or approval procedure.

f. The Executive Director of Procurement Services, with the approval of the Chief Financial Officer, may establish additional purchasing and contracting procedures to be published in a Purchasing and Contracting Manual that will be applicable to all CMS departments, such additional procedures to be consistent with this regulation.

#### **D. Delegation of Approval and Signature Authority**

Approval and signature authority for contracts shall be determined by the Superintendent in a manner consistent with Board Policy DJ.

#### **E. Examples of Contracts and Related Documents that Do and Do Not Require Board of Education Approval**

1. Examples of contracts and related documents that do require Board of Education approval include:

a. Contracts for acquisition of real estate and leases of real estate;

b. Disposition of real property, including easements;

c. Construction and repair contracts where the contract amount is greater than \$100,000;

d. Change orders to construction and repair contracts where the dollar amount is greater than \$100,000; and

e. Contracts/purchase orders for goods in an amount equal to or greater than \$90,000 pursuant to the authority of [N.C.G.S. §143-129](#)(e) (6) (e.g., no competitive bidding because performance or price competition are not available, a needed product is available from only one source of supply, standardization is the overriding consideration).

2. Examples of contracts and related documents that do not require Board of Education approval include:

a. Contracts/purchase orders for Goods, except as noted in section C.1.e., above;

b. Contracts for construction and repair work where the contract amount is less than or equal to \$100,000;

c. Change orders to construction and repair contracts where the dollar amount is less than or equal to \$100,000;

d. Contracts for services;

e. Amendments to land purchase contracts and land purchase closing documents provided that the Board of Education's financial obligations do not exceed that which was contemplated by the contract approved by the Board of Education; and

f. Memoranda of understanding, joint use, permissive use or similar agreements that do not require the expenditure of any funds or involve the disposition of property.

## Exhibit 1

### Summary of Applicable Competitive Procurement Methods

| Column 1  | Column 2                        | Column 3  | Column 4   |
|---|---------------------------------|---|--|
| Category  | Responsible Department          | Competitive Procurement Procedure   | MWSBE Efforts -Pre award   |
| 1. Construction & Repair<br><br>≥ \$500,000                   | Building Services               | Formal bids as required by and in accordance with state law.  | Compliance with <a href="#">NCGS 143-128</a> regarding M/WBEs; notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R; bidders required to complete good faith efforts to include M/WBE subcontractors in accordance with state law. SBE subcontractor projects goals where appropriate. |
| 2. Construction & Repair<br><br>< \$500,000<br><br>≥ \$30,000 | Building Services               | Informal bids as required by state law; specific competitive procedure to be determined by Building Services. | Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.  |
| 3. Construction & Repair<br><br>< \$30,000                    | Building Services               | Competitive procedures are not required; quotes are recommended.  | If ≥ \$5,000, then same procedures as row above; if <\$5,000; otherwise no requirements; rotating awards to multiple vendors, including M/W/SBE vendors, is recommended.   |
| 4. Surveying, Architecture, & Engineering                     | Building Services               | Qualification based selection criteria as required by and in accordance with state law.                       | Compliance with <a href="#">NCGS 143-64.31</a> regarding M/WBEs; notification of available M/W/SBE vendors using one or more of the available databases; bidders required to complete good faith efforts to include M/WBE subcontractors in accordance with state law. SBE subcontractor projects goals where appropriate.                                 |
| 5. Goods<br><br>> \$90,000<br><br>not on state contract       | Procurement Services Department | Formal bids as required by and in accordance with state law.  | Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.  |

|   |   |   |  |
|---|---|---|--|
| <p>6. Goods<br/> &lt; \$90,000<br/> ≥ \$30,000<br/> not on state contract</p> | <p>Procurement Services Department</p>                              | <p>Informal quotes as required by state law; specific competitive procedure determined by Procurement Services Department; Submitting Department permitted to obtain written (fax and e-mail permitted) or telephone quotes communicated to the Procurement Services Department on the appropriate quote forms; if formal procedures are utilized performed by Procurement Services Department.</p> | <p>Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.</p>                                   |
| <p>7. Goods<br/> &lt; \$30,000<br/> not on state contract</p>                 | <p>Procurement Services Department</p>                              | <p>Competitive procedures are not required; quotes are recommended.</p>   | <p>If ≥ \$5,000 then same procedures as row above; otherwise, no requirements; rotating awards to multiple vendors, including M/W/SBE vendors, is recommended.</p> |
| <p>8. Goods<br/> State Contract<br/> ≥ \$5,000</p>                            | <p>Procurement Services Department</p>                              | <p>Additional competitive procedures are not required.</p>  | <p>No requirements; rotating awards to multiple state contract vendors to the extent available, including M/W/SBE vendors, is recommended.</p>                     |
| <p>9. Goods<br/> State Contract<br/> &lt; \$5,000</p>                         | <p>Procurement Services Department</p>                              | <p>Additional competitive procedures are not required.</p>  | <p>No requirements; rotating awards to multiple state contract vendors to the extent available, including M/W/SBE vendors, is recommended.</p>                     |
| <p>10. Goods<br/> P-card Purchases</p>  | <p>Procurement Services Department &amp; Submitting Departments</p> | <p>Competitive procedures are not required.</p>   | <p>No requirements; use of one or more of the M/W/SBE databases, rotating awards to multiple vendors, including M/W/SBE vendors, is recommended.</p>               |

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|---|--|--|--|
| <p>11. Other Services (Except for Surveying, Architecture, &amp; Engineering)</p> <p>≥ \$5,000</p>    | <p>Procurement Services Department</p> | <p>Competitive procedures are not required; specific procedures determined in advance by Procurement Services Department after consultation with Submitting Department and M/W/SBE Department.</p> | <p>To be determined collectively by the Submitting Department, Procurement Services Department and M/W/SBE Department on a case by case basis.</p> |
| <p>12. Other Services (Except for Surveying, Architecture, &amp; Engineering)</p> <p>&lt; \$5,000</p> | <p>Procurement Services Department</p> | <p>Competitive procedures are not required.</p>  | <p>No requirements; rotating awards to multiple vendors, including M/WS/BE vendors, is recommended.</p>  |

## **Exhibit 2**

### **Waiver of Competitive Procurement Procedures**

(Not applicable to Construction & Repair and Goods Required by State Law to be Formally Bid)

#### **1. Each request must be in writing**

#### **2. Justification must be presented by requisitioning School/Department**

Conditions permitting waiver include, but are not limited to, the following:

1. When performance or price competition are not available;
2. When a needed product is available from only one source of supply;
3. When competition has been solicited but no satisfactory bid has been received;
4. When standardization or compatibility is the overriding consideration;
5. When a donation predicates the source of supply;
6. When specialized personal or professional services are required (such as accounting, appraisal, financial, legal, technology, educational trainers);
7. When a particular medical product, service, or prosthetic appliance is needed;
8. When a product is needed for the blind or severely disabled and there are overriding considerations for its use;
9. When additional products or services are needed to complete an ongoing job or task (same vendor source);
10. When products are bought for "over-the-counter" resale (and not for use in administering any office, school, or department of the school system);
11. When a particular product or service is desired for specialized educational, training, experimental, developmental, or research work (such as professional development, contracted services for after school enrichment program events, field trips);
12. When equipment is already installed, connected, and in service, and purchase of the equipment is deemed advantageous;
13. When items are subject to rapid price fluctuation or immediate acceptance;

14. When there is evidence of resale price maintenance or other control of prices, lawful or unlawful, or collusion on the part of companies that thwarts normal competitive bidding procedures;

15. When the amount of the purchase is too small to justify soliciting competition or when a small purchase is being made and a satisfactory price is available from a previous contract;

16. When the requirement is for an authorized cooperative project with another governmental unit or charitable nonprofit organization;

17. When a used item is available on short notice and subject to prior sale; and

18. When emergency action or pressing need is indicated. "Emergency action or pressing need" means: "Any purchase required to prevent injury to students/employees, damage or destruction of equipment, land or buildings, partial or complete shutdown of operations or when conditions make it impossible or impractical to contact authorized procurement personnel."

Date of Adoption: 4/1/75

Revised: 6/9/86, 9/23/91, 11/28/00, 3/21/01, 1/1/03, 12/3/03, 4/19/05, 3/12/07, 3/21/15, 6/19/18

Legal Reference: [N.C.G.S. §115C-522](#), [§143-64.31-64.34](#), [§143-129](#)*et seq.*,

Cross Reference: DJ, DJA, DJA-R

View or Print [Superintendent's Memo of Delegation of Contract Approval and Signature Authority](#).

#### **Footnotes**

1. These classifications are defined in Regulation DJA-R, Section 2.

**Charlotte-Mecklenburg Schools**

## Appendix 1: Federal Fund Requirements

### I. Purpose

The purpose of this regulation is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

### II. Regulation

- A. **Application of Regulation.** This regulation applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any sub-recipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

- B. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200-326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. Charlotte Mecklenburg Board of Education will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should Charlotte Mecklenburg Board of Education have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- C. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- D. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- E. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- F. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.

- G. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

### III. **General Procurement Standards and Procedures:**

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- A. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- E. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a "Not to Exceed" amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.
- F. **Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and "or equal" must be included in the description.

- G. Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- H. Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. Cost Estimate.** For all procurements costing \$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- L. Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- M. Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.
- O. Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

#### **IV. Specific Procurement Procedures**

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

**A. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing less than \$10,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

**B. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$10,000 up to \$90,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
5. Award the contract to the lowest responsive, responsible bidder.

**C. Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids.
2. Complete specifications or purchase description must be made available to all bidders.
3. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.

5. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for "sound documented reasons."

**D. Service Contracts** (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance "competitive proposal" procedure (2 C.F.R. § 200.320(d)) when the "sealed bid" procedure is not appropriate for the particular type of service being sought. The procedures are as follows:

1. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an "adequate number" of qualified firms.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
4. Consider all responses to the publicized RFP to the maximum extent practical.
5. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
6. Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
7. Award the contract on a fixed-price or cost-reimbursement basis.

**E. Construction and repair contracts costing less than \$10,000** shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:

1. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

**F. Construction and repair contracts costing \$10,00 up to \$250,000** shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:

1. Obtain price or rate quotes from an "adequate number" of qualified sources (a federal grantor agency might issue guidance interpreting "adequate number," so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).

2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

**G. Construction and repair contracts costing \$250,000 up to \$500,000** shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for “sound documented reasons.”

**H. Construction and repair contracts costing \$500,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.

5. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
6. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for "sound documented reasons."

**I. Construction or repair contracts involving a building costing \$300,000 and above** must comply with the following additional requirements under state law:

1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).

**J. Contracts for Architectural and Engineering Services costing under \$250,000** shall be procured using the state "Mini-Brooks Act" requirements (G.S. 143-64.31) as follows:

1. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
3. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
4. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
5. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
6. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

**K. Contracts for Architectural and Engineering Services costing \$250,000 or more** shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)(5)) as follows:

1. Publically advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
3. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
4. Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
5. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
6. Consider all responses to the publicized RFQ to the maximum extent practical.
7. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
8. Price cannot be a factor in the initial selection of the most qualified firm.
9. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

## **V. Exceptions**

Non-competitive contracts are allowed **only** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

**A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.

**B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.

- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

## Purchasing/Contracting Using Federal Funds (Appendix 2)

### Summary of Applicable Competitive Procurement Methods Using Federal Funds

| Column 1  | Column 2               | Column 3   | Column 4   |
|---|------------------------|--|--|
| Category  | Responsible Department | Competitive Procurement Procedure                                      | MWSBE Efforts – Pre award  |
| 1. Federal Funded Construction and Repair<br><br>>\$250,000 | Building Services      | Compliance with Uniform Guidance Requirements. Formal bids required.   | Compliance with Uniform Guidance and other requirements including <a href="#">NCGS 143-64.31</a> regarding M/WBEs; notification of available M/W/SBE vendors using one or more of the available databases; bidders required to complete good faith efforts to include M/WBE subcontractors in accordance with state law. SBE subcontractor projects goals where appropriate. |
| 2. Federal Funded Construction and Repair<br><br><\$250,000 | Building Services      | Compliance with Uniform Guidance Requirements. Informal Bids Required. | Compliance with Uniform Guidance and other requirements including <a href="#">NCGS 143-64.31</a> regarding M/WBEs; notification of available M/W/SBE vendors using one or more of the available databases; bidders required to complete good faith efforts to include M/WBE subcontractors in accordance with state law. SBE subcontractor projects goals where appropriate. |

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|--|---------------------------------|---|--|
| 3. Federal Funded Surveying, Architecture, & Engineering | Building Services               | Competitive procedures in compliance with the Federal Uniform Guidance Requirements.  | Compliance with Uniform Guidance and other requirements including <a href="#">NCGS 143-64.31</a> regarding M/WBEs; notification of available M/W/SBE vendors using one or more of the available databases; bidders required to complete good faith efforts to include M/WBE subcontractors in accordance with state law. SBE subcontractor projects goals where appropriate. |
| 4. Federal Funded Goods<br>> \$90,000                    | Procurement Services Department | Formal Bids Required in accordance to Uniform Guidance Requirements.  | Compliance with Uniform Guidance Requirements. Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.   |
| 5. Federal Funded Goods<br><\$90,000<br>>\$10,000        | Procurement Services Department | Informal quotes as required in accordance to Uniform Guidance Requirements and by state law; specific competitive procedure determined by Procurement Services Department; Submitting Department permitted to obtain written (fax and e-mail permitted) or telephone quotes communicated to the Procurement Services Department on the appropriate quote forms; if formal procedures are utilized performed by Procurement Services Department. | Compliance with Uniform Guidance Requirements. Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.   |

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| <p>6. Federal Funded Goods</p> <p>&lt;\$10,000</p>   | <p>Procurement Services Department</p> | <p>Additional competitive procedures are not required.</p>                             | <p>No requirements; rotating awards to multiple state contract vendors to the extent available, including M/W/SBE vendors, is recommended.</p>                                  |
| <p>7. Federal Funded Other Services (Except for Surveying, Architecture, &amp; Engineering)</p> <p>&gt; \$90,000</p>                     | <p>Procurement Services Department</p> | <p>Formal Bids Required in accordance to Uniform Guidance Requirements.</p>            | <p>Compliance with Uniform Guidance Requirements. Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.</p> |
| <p>8. Federal Funding Other Services (Except for Surveying, Architecture, &amp; Engineering)</p> <p>&gt;\$10,000</p> <p>&lt;\$90,000</p> | <p>Procurement Services Department</p> | <p>Federal Uniform Guidance Requirements to be followed. Informal quotes Required.</p> | <p>Compliance with Uniform Guidance Requirements. Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.</p> |
| <p>9. Federal Funds for Other Services (Except for Surveying, Architecture, &amp; Engineering)</p> <p>&lt;\$10,000</p>                   | <p>Procurement Services Department</p> | <p>Competitive procedures are not required.</p>  | <p>No requirements; rotating awards to multiple vendors, including M/WS/BE vendors, is recommended.</p>   |