

# Procurement

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## Responsibility for Purchasing and Purchase Methods

The type of purchase procedures required depends on the cost of the item(s) being purchased. Purchases of less than \$3,500 are not required to evaluate competitive quotes, however it is strongly recommended that you do so. Purchases between \$3,500 and \$50,000 must submit competitive quotes with the requisition. Purchases of \$50,000 or more must follow the Invitation-for-bids (IFB) or Request-for-Proposal (RFP) process. **Note, if state or local procurement policy is more restrictive than the federal purchase methods below, the district must always follow the most restrictive policy.**

### ***Purchases up to \$3,500:***

DESE allows a district to choose to follow the prescribed purchasing procedures of the district's local governing body, or to develop its own policies and procedures and purchase all services, supplies, furniture, fixtures, and material.

Competitive bids are not required for purchases below \$3,500. However, good fiscal management should be used when making such purchases. If the price appears to be high, request a price from another vendor.

### ***Purchases of \$3,500 to \$50,000:***

Purchases between \$3,500 and \$50,000 must submit competitive quotes with the requisition. There is bid sheet form available on the Finance/Business Office Web page designed to document the bid solicitation process.

If a vendor submitted a bid in writing (letter, e-mail, Web site posting) attach a copy of the written bid to the bid sheet form. For oral (telephone) quotes, document the bid on the bid sheet form. The bid sheet form must be signed and dated by the person or persons soliciting bids.

Submit the Bid Sheet and written quotes with the requisition.

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## ***Cooperative Purchasing Groups:***

Purchases less than \$50,000 may be executed through an approved buying group without the need to seek competitive bids. The District uses groups approved by the State of Missouri. Currently, the District uses the

- **OMNIA Partners** (formerly National IPA & TCPN)
  - <https://www.omniapartners.com/>
- **Education Plus Cooperative Purchasing**
  - <https://www.edplus.org/Page/309>
- **Missouri Cooperative Procurement Program**
  - <https://oa.mo.gov/purchasing/cooperative-procurement-program>

It remains preferable that District purchases are made based on full and open competition (soliciting bids) however the purchasing cooperatives may be used in an emergency situation when the solicitation of competitive bids is not feasible.

## ***Purchases of \$50,000 and greater:***

Purchases of \$50,000 or more require the issuance of a request for proposals (RFP). The RFP process is documented elsewhere. Generally:

- The requests for proposals template is available from the Finance Department
- Requests for proposal must be posted on the District Web page for a minimum of ten (10) business days
- Vendor responses to the requests for proposal must be sent directly to the CFO
- 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;
- Proposals must be solicited from an adequate number of qualified sources; and
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
- For competitive proposals, EDGAR requires recipients to have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
- Cost to the District must carry the most weight in evaluating proposals

*Architectural/Engineering Professional Services:* The District may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The

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method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

## ***Noncompetitive Proposals (Sole Sourcing)***

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the District; or
- After solicitation of a number of sources, competition is determined inadequate.

## **A. Full and Open Competition**

All procurement transactions must be conducted in a manner providing full and open competition. 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:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- 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; and
- Any arbitrary action in the procurement process.

EDGAR further requires the following to ensure adequate competition.

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## ***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.

## ***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.

## ***Solicitation Language***

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.

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; and identify all requirements which the offers must fulfill and all other factors to be used in evaluating bids or proposals.

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## B. Federal Procurement System Standards

### ***Avoiding Acquisition of Unnecessary or Duplicative Items***

The District must avoid the acquisition of unnecessary or duplicative items. Additionally, consideration is given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis must be made of leases versus purchase alternatives, and another other appropriate analysis to determine the most economical approach. These considerations are given as part of the process to determine the allowability of each purchase made with federal funds.

### ***Use of Intergovernmental Agreements***

To foster greater economy and efficiency, the District shall enter into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services.

### ***Use of Federal Excess and Surplus Property***

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.

### ***Debarment and Suspension***

The District shall award 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.

The District may not subcontract with or award sub-grants to any person or company who is debarred or suspended and is required to check for excluded parties at the System for Award Management website before any procurement transaction. This list is located at: <http://www.sam.gov/>.

### ***Maintenance of Procurement Records***

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.

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## ***Time and Materials Contracts***

The District may use a time and materials type contract only if (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to the 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.

## ***Settlements 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.

## ***Protest Procedures to Resolve Dispute***

The District shall maintain protest procedures to handle and resolve disputes relating to procurements and, in all instances, disclose information regarding the protest to the awarding agency.

## **C. Conflict of Interest Requirements**

### ***Standards of Conduct***

The District maintains the following standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to

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employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the District may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value.

## ***Organizational Conflicts***

Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

## ***Mandatory Disclosure***

Upon discovery of any potential conflict, the District shall disclose in writing the potential conflict to the federal awarding agency in accordance with applicable federal awarding agency policy.

## **D. Contract Administration**

The District shall maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders as monitored by the Superintendent or Designee.