

PROCUREMENT PROCEDURES IMPLEMENTING FEDERAL REGULATIONS AND LOCAL POLICY

Federally-Authorized Grounds for “Single Source” Procurement

In connection with procurements made using, in whole or in part, federal funds that are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance”), any one or more of the following conditions may justify procurement pursuant to a noncompetitive proposal (i.e., relying on “single source” procurement):

1. The item is available only from a single source;
2. A public exigency or emergency for a necessary procurement will not permit a delay resulting from a competitive solicitation;
3. After solicitation of a number of sources, the District determines that competition is inadequate;
4. The federal awarding agency or the state as a pass-through entity has expressly authorized noncompetitive proposals in response to a written request from the District.

The District will document the grounds for using a noncompetitive process in lieu of an otherwise-required competitive method of procurement.

In addition to the above-listed federal justifications for noncompetitive procurement, Board policy lists additional grounds for using a noncompetitive process that the administration and District procurement agents may rely on for purchases that are not supported by federal funds that are subject to the Uniform Guidance.

District Standards for Obtaining Price/Rate Quotations to Support Procurement Decisions

The following procedures and standards apply to District procurement decisions that include the consideration of valid price or rate quotations, including procurements made using, in whole or in part, federal funds that are subject to the Uniform Guidance:

1. The District’s preferred standard is three (3) quotations from separate sources among which the District is essentially indifferent as to all specifications and terms other than cost. The minimum standard (when not relying on a valid sole-source justification) is at least two (2) price/rate quotations representing acceptable procurement options. If applicable, the reason for deviating from the preferred standard shall be documented. One example of a valid reason for such a deviation is the demonstrated administrative burden associated with meeting the preferred standard in a specific situation.
2. Documented price or rate quotations may be obtained from an online search, from publicly-advertised prices, from written quotations prepared upon request, by documenting verbal quotations, or by referencing any pre-established procurement arrangement that the District is entitled to utilize (e.g., consortium pricing). In submitting a purchase or contract for School Board approval, the administration may consider quotations from a source not expressly listed in this paragraph if such an alternative source is documented and identified for the Board’s consideration.
3. The specific price/rate quotation need not be the sole determining factor in the procurement decision when the District, considering the best interests of the District and the responsible expenditure of funds, determines at its discretion that (a) other relevant and material differences exist among the quotations (e.g., quality, functionality, vendor-supplied support services, life-cycle cost estimates, vendor experience in connection with the purchase of services, etc.), and (b) such differences predominate over a strict cost comparison. The reason for deviating from using cost as the determining factor shall be documented.

Methods of Determining Reasonable Prices for a "Micro-Purchase" Made under Informal Procurement Methods

Where District procurement agents are permitted to make or authorize a purchase in an aggregate amount of \$5,000 or less based on a determination that the price of the purchase is reasonable, such determination may be made by, for example, comparing the price to previous purchases of the same item(s), having personal knowledge of typical pricing for the item(s) being purchased, or comparing the price of items that are similar to the items being purchased.

Partial List of Additional Requirements Applicable to Procurements that are Subject to the Federal Uniform Guidance Regulations

Except as expressly authorized by the Uniform Guidance and/or other applicable federal law:

1. Solicitations for procurement by bids or proposals must (a) identify all requirements which an offer must fulfill and all other factors to be used in evaluating bids or proposals, and (b) incorporate a sufficiently clear and accurate description of the technical requirements for the material, product, or service to be procured.
2. Vendors or contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals on behalf of the District are ineligible to compete for any procurement to which their development or drafting work on behalf of the District relates.
3. The District must conduct procurements for federally-supported contracts without the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals.
4. Solicitation of competitive bids or competitive proposals shall be made through public advertising and through the direct solicitation of a reasonable number of individual providers/contractors, as determined by the District Administrator. However, District procedure must not preclude potential vendors from qualifying during the solicitation period.
5. The District must take affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. These affirmative steps include, but are not limited to, placing qualified small and minority businesses and women's business enterprises on solicitation lists and assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources. Where District contracts involve the letting of subcontracts by a prime contractor, the prime contractor is likewise required to take such affirmative steps.
6. Costs or prices based on estimated costs for contracts supported by federal awards are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the District under the cost principles that the Uniform Guidance applies to the District as a recipient of federal funds.
7. A time and materials contract may be used only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk.
8. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.
9. District contracts that are subject to the Uniform Guidance must contain the applicable provisions described in Appendix II to Part 200 of Title 2 (Contract Provisions for non-Federal Entity Contracts under Federal Awards).
10. District procurement supported by federal funds may be subject to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The general requirements include procuring solid waste management services in a manner that maximizes energy and resource recovery; establishing an affirmative program for procurement of recovered

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materials as identified in Environmental Protection Agency (EPA) guidelines; and, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, procuring only items designated in regulatory guidelines of the EPA that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

ADOPTED: February 9, 2017