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**740 PROCUREMENT AND NON-EMPLOYEE CONTRACTING**

**I. PURPOSE**

The purpose of this policy is to outline the requirements for purchasing materials, products, or services.

**II. GENERAL STATEMENT OF POLICY**

A. Follow a free and open competitive process in securing those products or services.

B. Properly document purchasing activities and decisions.

C. Observe the special rules for particular kinds of purchases typically used under the federal Charter School Program, federal special education funding, and other

grant based funding sources.

D. All purchases will follow federal, state, and local statutes and regulations including specific requirements found in the Code of Federal Regulations (CFR) at 34 CFR 80.36 for governmental sub-recipients and 34 CFR 74.40-48 for sub-recipients that are non-profit organizations (e.g. CSP sub-grantees).

Individuals requesting material goods or contracts to be purchased with Federal Funds granted to ART AND SCIENCE ACADEMY (ASA) will complete documentation to assure the district of the following:

1. all purchases are conducted in a manner providing a full and open competition (See also Conflict of Interest Policy/Procedure), void of excessive requirements, such as experience, bonding, geographical preference
2. non-duplication of purchases for the same program
3. the purchase of a quality product rather than brand name
4. an accurate description of the product and its use

**III. PERMITTED PROCUREMENT METHODS**

The following are purchase thresholds for ASA.

1. Micro purchase (<$10,000, no quotations, equitable distributions)
2. Small purchase ($10,000-$175,000, rate quotations, no cost or price analysis)
3. Sealed Bids (+$175,000, formal advertising, price is a major factor).

D. Competitive proposal (>$100,000, fixed price or cost reimbursement, request for proposal (RFP) with evaluation methods).

E. Non-competitive proposal (solicitation of a proposal from only one source, unique product, service). Non-competitive proposals can be utilized only in one or more of the following situations:

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

**IV. CONTRACTING WITH SMALL AND MINORITY FIRMS AND WOMEN’S BUSINESS ENTERPRISES**

A. The School District will take all necessary affirmative steps to assure that small and minority firms and women’s business enterprises are used when possible.Affirmative steps include:

* Placing qualified small and minority business and women’s business enterprises on solicitation lists;
* Assuring that small and minority business and women’s business enterprises are solicited whenever they are potential sources;
* Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises;
* Establishing delivery schedules, where the requirements permits, which encourage participation by small and minority business and women’s’ business enterprises; and
* Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

**V. DEBARRED AND SUSPENDED PARTIES**

A. The School District must not make any award or permit any award (sub-grant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, ``Debarment and Suspension.''

The EPLS database located at http://www.epls.gov is a Federal government system maintained by GSA as required by [FAR Subpart 9.4](http://www.acqnet.gov/far/current/html/Subpart%209_4.html" \t "_blank) and Executive Orders [12549](http://www.epa.gov/isdc/eo12549.htm) and [12689](http://www.epa.gov/isdc/eo12549.htm).

B. Prior to contract award financed in whole or part with federal CSP grant or other funds, the School District shall use the EPLS database to ensure proposed contractors are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549.

C. In order to document compliance with this requirement, the School District shall file with each contract:

* Results of EPLS search; and

* Certification as part of contract from the contractors that they have not been debarred or suspended from participation in federal, state, or local programs.

**VI. ADMINSTRATIVE PROCEDURES**

1. Determine procurement method based on need, cost, and source availability.
   1. Micro purchase (<$10,000, no quotations, equitable distributions)
   2. Small purchase ($10,000-$175,000, rate quotations, no cost or price analysis)
   3. Sealed Bids (+$175,000, formal advertising, price is a major factor). Requirements for sealed bids:
   4. The invitation for the bid will be publically advertised and bids must be selected from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids.
   5. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond.
   6. All bids will be publicly opened at the time and place prescribed in the invitation for bid
   7. A firm fixed price contract award will be made in writing to the lowers responsive and responsible bidder.
   8. Any or all bids may be rejected if there is a sound documented reason.

D. Competitive proposal (>$100,000, fixed price or cost reimbursement, request for proposal (RFP) with evaluation methods). Requirements for competitive proposal procedures:

1. Request for proposals must be publicized requests and identify all evaluation factors and their relative importance
2. Proposals must be solicited from an adequate number of qualified sources
3. The organization must have written method for conducting technical evaluations of the proposals received and for selecting recipients
4. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program
5. The organization may only use qualification-based methods, whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, in the procurement of architectural/ engineering professional services.

E. Non-competitive proposal (solicitation of a proposal from only one source, unique product, service). Non-Competitive proposals can be utilized only in one or more of the following situations:

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

B. In addition to the contract certification provision under **DEBARRED AND SUSPENDED PARTIES** above, and in accordance with 34CFR 80.36(i) and34CFR 74.48(e), written contracts with vendors must include the following:

For CSP financed contracts (which may only be non-construction), contracts must include provisions found in 34CFR 80.36(i):

1. Paragraph (7) Notice of awarding agency requirements and regulations pertaining to reporting;
2. Paragraph (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract;
3. Paragraph (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data;
4. Paragraph (10) Access by the grantee, the sub grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions;
5. Paragraph (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed; and
6. Paragraph (13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94 163, 89 Stat. 871).
7. For CSP financed non-construction contracts of $10,000 or more, contracts must include, in addition to above, provision found in paragraph (2) Termination for cause and for convenience by the grantee or sub grantee including the manner by which it will be effected and the basis for settlement.

For CSP financed non-construction contracts of $100,000 or more, contracts must include in addition to above, the following provisions found in:

1. Paragraph (1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate; and
2. Paragraph (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act ([42 U.S.C.](http://www.vlex.us/codes/US-Code-Title-42/2300-1041,01.html) 1857(h)), section 508 of the Clean Water Act ([33 U.S.C. 1368](http://vlex.com/vid/19222736)), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and
3. Appendix A to Part 74-Contract Provisions, paragraph (8) Byrd Anti-Lobbying Amendment (31U.S. C. 1332)

C. General Expenditure Procedures

1. Purchases are made in accordance with applicable legal requirements. Except for small purchases made from petty cash, purchase orders are required for all purchases not made by a purchase card.
2. The School Administrator or Designee prepares purchase orders upon receipt of a purchase requisition.
3. The School Administrator must approve all purchase orders/requisitions. The School Board, or its designee, must approve purchase requisitions for items requiring bids or proposals. At no time should school employees obligate the school to purchases without Administrator approval.
4. Copies of purchase orders are kept on file in the office and distributed to necessary parties as applicable.

**VII. RECORDS TO BE MAINTAINED**

A. The School District must maintain *records to detail the significant history of a procurement.*These records include, but are not limited to documentation on:

* The rationale for selecting the *method* of procurement used;
* The rationale for selecting/rejecting the *contractor*;
* The rationale for selecting the *type* of contract;
* The basis for the *cost or price* of a contract;
* The receipt of an adequate number of price or rate quotations from qualified sources; and
* Justification for lack of competition when competitive bids or offers are not obtained.
* Any additional financial, statistical, or supporting documents/records as appropriate.
* Records need to be maintained by the district for at least 5 years.

***Legal References:* 20 U.S.C. 3474**

**24 CFR Sec. 80.35**

**34 CFR 74.40-48**

**34 CFR 80.36**