

### 7.4.3 - Procurement Standards for Federal Programs

The Van Buren School District has written procedures for procurement transactions. **C.F.R. 200.319** Procurement standards under include the following areas:

- Open competition;
- Conflict of interest (definition, policy, sanctions, training);
- Solicitations;
- Cost/Price Analysis;
- Vendor selection process (debarment, small/minority/women's businesses, monetary levels of purchases, non-competition);
- Required Contract Provisions;
- Contract Administration; and
- Protest Procedures.
- **C.F.R. 200.308.** for Revision of budget and program plan

In accordance with both Federal and Arkansas laws, all purchases made by the District must conform to all purchasing laws and all purchasing policies and procedures. There are two categories of procurement: the purchase of goods and the purchase services (including service contracts). The policies and procedures governing both categories depend on the dollar amount of the goods purchased or the service provided (or service contract).

The following information is current as of February, 2015. However, the most up to date information for federal regulations will be contained on the EDGAR website. Detailed information on State of Arkansas procurement laws can be obtained from documentation on the Arkansas Department of Finance and Administration website, Office of State Procurement: [http://www.arkansas.gov/dfa/procurement/documents/laws\\_rules0907.pdf](http://www.arkansas.gov/dfa/procurement/documents/laws_rules0907.pdf).

#### **Open Competition and Procurement C.F.R. 200.319**

In accordance with both federal and state procurement laws, the District will conduct all procurement transactions in a manner that provides full and open competition.

#### **Conflict of Interest and Procurement**

Conflict of Interest Defined: A conflict of interest arises when an employee, officer, agent; or any employee, officer or agent's immediate family member or partner; or organization which employs or is about to employ any of the preceding, has a financial interest in the firm selected for procurement.

Conflict of Interest Standard of Conduct and Policy: In compliance with federal regulations and **Arkansas Act 1599 of 2001**, the District maintains a standard of conduct and conflict of interest policy. Act 1599 of 2001 establishes ethical guidelines and prohibitions for local school board members, educational administrators, and employees of any public educational entity in Arkansas. Details of Act 1599 can be found in the following link: <ftp://www.arkleg.state.ar.us/acts/2001/htm/ACT1599.pdf>.

A non-federal entity may not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to be subcontracted.

Conflict of Interest - Employee training: Employees will be received training on conflict of interest during the Tier II presentation. Supervisors, principals, and department heads will, in turn, present to their employees conflict of interest training during professional development hours.

Conflict of Interest - Employee certification: Act 1599 documentation and disclosure forms will be made available to employees at the first of the school year. Space will be provided for the employee to acknowledge conflict of interest training and understanding of the conflict of interest policy. The District must disclose in writing any potential conflict of interest to the federal awarding agency in accordance with applicable Federal awarding agency policy. **C.F.R. 200.112**

### **Procurement and the Vendor Selection Process**

In addition to the requirements set by EDGAR rules, Arkansas State Procurement Code and Act 1189 of 2013 governs purchases of goods and services in the State of Arkansas. Where EDGAR rules are more stringent, EDGAR rules apply. Where Arkansas Procurement Code is more stringent, Arkansas law applies. Under both, the policies and procedures governing procurement of goods and services depend on the amount of the purchase or contract. Basic information on these policies is outlined below.

Detailed information regarding State of Arkansas procurement can be found on the State's Legislative website: [www.arkleg.state.ar.us/acts/2013/Public/ACT1189.pdf](http://www.arkleg.state.ar.us/acts/2013/Public/ACT1189.pdf).

Debarment: To ensure that the District does not contract or sub-contract with suspended or debarred vendors, vendor names will be checked on the EPLS [www.epls.gov](http://www.epls.gov) or [www.sam.gov](http://www.sam.gov). Documentation will be retained to show that a vendor is not debarred. If, after awarding a contract, the District discovers a vendor has been suspended or disbarred, the District may consider termination and/or non-renewal or non-extension of the contract, unless an exception is made by the US Department of Education.

The District will maintain oversight of contracts and contractors to ensure that all terms, conditions, and performance specifications are met.

Small Businesses, Minority Businesses, Women's Businesses, and Labor Surplus Area Firms. In accordance with **C.F.R. 200.321**, the District will, when possible, contract with small and minority businesses, women's business enterprises, and labor surplus area firms.

### Monetary Ranges and Requirements:

**Micro Purchases.** Purchases of goods and services, the aggregate total of which is less than \$3,000 per fiscal year (Example: supplies [books, paper, and technology supplies] the aggregate total of which is less than \$3,000 per fiscal year.) While not required, it is recommended that documentation is retained to prove that prices for micro-purchases have been compared and purchases were made in open competition.

**Small Purchases and contracts (\$3001 – \$10,000).** Per Federal Edgar requirements, must obtain price or rate quotes from a minimum of two sources. Documentation must be retained.

**Purchases and contracts (\$10,000 - \$50,000).** Per Arkansas Procurement Law, competitive “quotation” bids must be obtained. Documentation must be retained.

**Purchases and contracts of more than \$50,000.** Per Arkansas Procurement Law, competitive sealed bids are required. Documentation must be retained.

**Purchases and contracts of \$150,000 or more.** Per Arkansas Procurement Law, competitive sealed bids are required and per Federal law, cost or price analysis is required in connection with every procurement action, including contract modifications. Documentation must be retained.

**C.F.R. 200.320**

- Cost Analysis: Evaluating the separate cost elements that make up the total price, including profit.
- Price analysis: Evaluating the total price.

**Purchase of goods and services summary**

Type of Purchase	Requirement	Bid or Quote Documentation Required?
“Micro Purchase” <\$3,000 per year (\$2,000 for construction)	<p><b><u>Reference: C.F.R. 200.320</u></b></p> <p>a) May purchase without soliciting competitive quotations if the cost is Considered reasonable.</p> <p>b) To the extent practicable, must distribute micro-purchases equitably among qualified suppliers.</p> <p>c) Cost or price analysis not required</p>	Not required but is <u>Recommended</u>
Purchases & contracts \$3,000 - \$10,000	<p><b><u>Reference: C.F.R. 200.320</u></b></p> <p>a) Obtain competitive quotations from at least two sources.</p> <p>b) Simple, informal quotes.</p> <p>c) Includes procurement of all types of services, none are excluded.</p> <p>d) Cost or price analysis not required.</p>	Yes
\$10,000.01 \$50,000.00	<p><b><u>Reference: Arkansas Procurement Code A.C.A. §19-11-204 &amp; Act 1189 of 2013</u></b></p> <p>a) Obtain competitive quotation bids.</p> <p>b) Includes procurement of all types of services; none are excluded.</p> <p>c) Cost or price analysis not required.</p>	Yes
\$50,000.01	<p><b><u>Reference: Arkansas Procurement Code</u></b></p>	

<p>\$150,000</p>	<p><b><u>A.C.A. §19-11-229(b)(1) and C.F.R. 200.320</u></b>  a) Procurement by sealed bids, publicly solicited (formal advertising).  b) Invitation to bid must contain complete, adequate, realistic specifications or purchase description.  c) Bids must be solicited from adequate number of known suppliers, giving sufficient time to respond.  d) Bids opened at place and time specified in the invitation to bid.  e) Firm, fixed price contract awarded in writing to lowest responsive and responsible bidder.  f) Sound, documented reason for any or all bids rejected.</p>	<p>Yes</p>
<p>&gt;\$150,000</p>	<p><b><u>Reference: Arkansas Procurement Code A.C.A. §19-11-229(b)(1) and C.F.R. 200.320</u></b>  a) Procurement by sealed bids, publicly solicited (formal advertising).  b) Invitation to bid must contain complete, adequate, realistic specifications or purchase description.  c) Bids must be solicited from adequate number of known suppliers, giving sufficient time to respond.  d) Bids opened at place and time specified in the invitation to bid.  e) Firm, fixed price contract awarded in writing to lowest responsive and responsible bidder.  f) Sound, documented reason for any or all bids rejected.  g) Cost/Price Analysis (evaluating the total price) is required in accordance with C.F.R. 200.323.</p>	<p>Yes</p>

**Non-Competitive Proposals:**

Non-competitive proposals are appropriate only when the good or service is available only from a single source (sole source – ex. Microsoft Office software license renewal or a reading program in use this year and to be continued next year); when there is a public emergency; when the awarding agency authorizes non-competition in response to a written request from the non-federal entity; or when, after soliciting a number of sources, competition is deemed inadequate.

Non-competitive tips:

1. Be careful of vendors who know your assessments, etc.

2. Begin with soliciting proposals from a number of sources.
3. Make the vendors tell you why they are the best. Example, when purchasing a reading program, you can specify in the bid that you want 'Reading Best' or a program that "offers equal value".

**Non-Competitive Proposals (Sole Source) Justification as required by Arkansas code ACA §6-24-101:**

Attach a single source justification document to the purchase order with a copy kept in the audit file for all single-source commodities (commodities include goods and services). The Arkansas Department of Education requires that the following criteria be met:

- Why the service or product is needed.
- The methods used to determine that a lack of responsible/responsive competition exists for the product.
- How it was determined that the provider possesses exclusive capabilities.
- Why the service or product is unique.
- Whether or not there are patent or property rights which make the required service or product unavailable from other sources.
- What the District would do if the provider/service product were no longer available.
- Any program considerations which make the use of a "sole source" critical to the successful completion of the District's task.

**Procurement of Recovered Materials C.F.R. 200.322**

The District will comply with Section 6002 of the Solid Waste and Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, 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 solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**Procurement of Professional Services C.F.R. 200.459.**

Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill are allowable.

Service Contracts:

There are a number of different types of service contracts.

Consulting – An independent contractor who possesses specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services or improvements in programs or services, including, but not limited to, such areas as management, data processing, advertising, and public relations.

### **Internal Controls - Defined According to C.F.R 200.61**

Internal Controls means a process, implemented by a District, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

1. Effectiveness and efficiency of operations;
2. Reliability of reporting for internal and external use; and
3. Compliance with applicable laws and regulation

### **Compliance requirements for Federal awards C.F.R. 200.62**

District policy and processes ensure that the following objectives are met for Federal awards and to ensure that transactions are properly accounted for.

1. To permit the preparation of reliable financial statements and Federal reports;
2. To maintain accountability over assets;
3. To demonstrate compliance with Federal statutes, regulations, and the terms and conditions of the Federal award;
4. To ensure that transactions are executed in compliance with:
  - a. Federal statutes, regulations, and the terms and conditions of the Federal award that could have a direct and material effect on a Federal program; and
  - b. Any other Federal statutes and regulations that are identified in the Compliance Supplement; and
  - c. Funds, property and other assets are safeguarded against loss from unauthorized use or disposition.

### **Post Federal Award Requirements - Internal controls C.F.R. 200.303**

The non-Federal entity must:

- Establish and maintain effective internal control over the Federal award
- Comply with Federal statutes, regulations and the terms and conditions of the Federal award
- Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards
- Take prompt action with instances of noncompliance are identified
- Take reasonable measures to safeguard protected personally identifiable information

Approved by Board of Education 06/14/16