



FEDERAL AWARD/GRANT MICRO-PURCHASE SELF-CERTIFICATION

Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of Title 2 Code of Federal Regulations (C.F.R.) Subtitle A Part 200 section 320.

Pursuant to 2 C.F.R 200.320(a)(1)(iv), self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a “higher threshold consistent with State law”.

The undersigned certifies, to the best of their knowledge, that:

1. Hillsborough County Public Schools’ procurement of goods and services is subject to 2 CFR Parts 200.317 – 327, Florida Statutes, Florida Administrative Code 6A-1.012, and The School Board of Hillsborough County Public Schools, FL Policy 6320 - Procurement.
2. The School Board of Hillsborough County Schools, FL Policy 6320 - Procurement states it is the policy of the Board that the Superintendent shall be responsible for estimating needs for items in common use and making quantity purchases. All items, or groups of related items, that cost in excess of the amount defined in F.A.C. 6A-1.012 shall be purchased based on competitive solicitations, except as otherwise authorized by Florida statutes and/or Florida Administrative Code.
3. Rule 6A-1.012, Florida Administrative Code authorizes district school boards to establish purchasing policies for the purchase of commodities or contractual services for which a determination is made that the aggregate amount does not exceed \$50,000.

In accordance with 2 C.F.R. 200.320(a)(1)(iv) and the applicable provisions of Florida law, Hillsborough County Public Schools hereby self-certifies and establishes a micro-purchase threshold of \$50,000, which is a “higher threshold consistent with State law” under 2 C.F.R. 200.320(a)(1)(iv)(C) for the reasons set forth in this self-certification.

The self-certification made herein shall be applicable for fiscal year July 1, 2024 – June 30, 2025. Supporting documentation is attached.

Hillsborough County Public Schools Chief Financial Officer, Romaneir Johnson, certifies or affirms the truthfulness and accuracy of each statement of this certification.

Signature: *Romaneir Johnson*
Romaneir Johnson (Jul 17, 2024 17:24 EDT)

Title 2 – Grants and Agreements

Subtitle A – Office of Management and Budget Guidance for Grants and Agreements

Chapter II – Office of Management and Budget Guidance

Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Subpart D – Post Federal Award Requirements

Source: 85 FR 49543, Aug. 13, 2020, unless otherwise noted.

Authority: 31 U.S.C. 503

Source: 78 FR 78608, Dec. 26, 2013, unless otherwise noted.

Procurement Standards

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PROCUREMENT STANDARDS

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§ 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by § 200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§ 200.318 through 200.327.

§ 200.318 General procurement standards.

- (a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

- (b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- (c)
 - (1) The non-Federal entity must maintain written 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 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 non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
 - (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. 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.
- (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
- (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.
- (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
- (h) The non-Federal entity must 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. See also § 200.214.

- (i) The non-Federal entity must maintain records sufficient to detail the history of procurement. 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, and the basis for the contract price.
- (j)
 - (1) The non-Federal entity may use a time-and-materials type contract 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. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:
 - (i) The actual cost of materials; and
 - (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.
 - (2) 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 non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.
- (k) The non-Federal entity alone must be 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 non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

§ 200.319 Competition.

- (a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and § 200.320.
- (b) 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:
 - (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
 - (2) Requiring unnecessary experience and excessive bonding;
 - (3) Noncompetitive pricing practices between firms or between affiliated companies;
 - (4) Noncompetitive contracts to consultants that are on retainer contracts;
 - (5) Organizational conflicts of interest;

- (6) 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
 - (7) Any arbitrary action in the procurement process.
- (c) The non-Federal entity 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. Nothing in this section preempts state licensing laws. 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.
- (d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
- (1) 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
 - (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- (e) The non-Federal entity 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 non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.
- (f) Noncompetitive procurements can only be awarded in accordance with § 200.320(c).

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

- (a) *Informal procurement methods.* When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT)*, as defined in § 200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:
- (1) *Micro-purchases* —

- (i) *Distribution.* The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in § 200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.
 - (ii) *Micro-purchase awards.* Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.
 - (iii) *Micro-purchase thresholds.* The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.
 - (iv) *Non-Federal entity increase to the micro-purchase threshold up to \$50,000.* Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:
 - (A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;
 - (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
 - (C) For public institutions, a higher threshold consistent with State law.
 - (v) *Non-Federal entity increase to the micro-purchase threshold over \$50,000.* Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.
- (2) *Small purchases* —
- (i) *Small purchase procedures.* The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) *Simplified acquisition thresholds.* The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) *Formal procurement methods.* When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with § 200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) *Sealed bids.* A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

- (A) A complete, adequate, and realistic specification or purchase description is available;
- (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

- (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (B) 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;
- (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (E) Any or all bids may be rejected if there is a sound documented reason.

(2) *Proposals.* A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - (ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;
 - (iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and
 - (iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The 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 that are a potential source to perform the proposed effort.
- (c) *Noncompetitive procurement.* There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:
- (1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);
 - (2) The item is available only from a single source;
 - (3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
 - (4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
 - (5) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (b) Affirmative steps must include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

§ 200.322 Domestic preferences for procurements.

- (a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- (b) For purposes of this section:
 - (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
- (c) Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.

[85 FR 49543, Aug. 13, 2020, as amended at 88 FR 57790, Aug. 23, 2023]

§ 200.323 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste 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 (EPA) at 40 CFR 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.

§ 200.324 Contract cost and price.

- (a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.325 Federal awarding agency or pass-through entity review.

- (a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
- (b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
 - (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
 - (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
 - (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
- (c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
 - (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

- (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.326 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in appendix II to this part.

Hillsborough County Public Schools Policy Manual

6320 - Procurement

Responsibilities

The Superintendent shall be responsible for the procurement of commodities and contractual services paid for from Board funds. The term "superintendent" shall be defined for the purposes of this rule to mean "superintendent or designee".

Superintendent/Designee Authority

The Superintendent is authorized to approve and execute contracts on behalf of the District involving the expenditure of public funds in an amount no greater than the amount established for purchase in F.A.C. 6A-1.012, so long as the obligation created does not exceed the applicable appropriation within the District budget and the contract is otherwise in compliance with the applicable District procedures, rules, and law. The procurement of commodities or contractual services may not be separated so as to avoid this monetary threshold requirement. For the purposes of Policy 6320, designee is defined as Deputy Superintendent, Chief of Staff, Chief Financial Officer, or General Manager of Procurement.

The Board has also delegated limited procurement authority to department heads and school principals, as set forth below.

A. Authority is vested in the administrator of each department and principal of each school to contract for goods and services in an amount not to exceed \$5,000 total contract value, upon review and approval of terms and conditions by Procurement Services.

B. Authority is vested in the Superintendent to approve agreements for technical services between \$5,000 and \$10,000. When the contract amount will equal or exceed \$10,000 for any one fiscal year, the agreement for technical services must be approved by the Board prior to services being provided.

Board Approval

The Board shall approve and execute all contracts on behalf of the District involving the expenditure of public funds in an amount greater than the amount established for purchase in F.A.C. 6A-1.012.

Purchase

Each purchase shall be based upon a request originating from the principal or department head where the product is used, except in extreme emergencies, when the Superintendent may grant permission for such purchases. Each emergency purchase shall be followed immediately with a purchase order or Purchasing Card (P-Card) payment. Each request, or agreement/contract, shall be properly financed, budgeted, and encumbered prior to the issuing of a purchase order. P-Card orders may also be used if in accordance with District Policies and P-Card Procedures and Guidelines. The payment of an unauthorized purchase shall be the sole responsibility of the person placing the order.

Personal Purchases and Commercial Services

No employee or school official of the Board shall be permitted to use bid prices or school prices or receive any preferential treatment in the making of personal purchases unless approved by the Superintendent.

Bidding

It is the policy of the Board that the Superintendent shall be responsible for estimating needs for items in common use and making quantity purchases. All items, or groups of related items, that cost in excess of the amount defined in F.A.C. 6A-1.012 shall be purchased based on competitive solicitations, except as otherwise authorized by Florida statutes and/or Florida Administrative Code.

The Board shall give consideration to prices established by the State of Florida Department of Management Services, Division of Purchasing through its contracts and negotiated agreement price schedules. The Board shall also give consideration to prices established by cooperative agreements, educational consortiums, and other governmental agencies. The Board is not required to request bids for purchases made from local government authorized Federal General Services Administration contracts.

The Superintendent is authorized to issue purchase orders in accordance with competitive solicitations awarded pertaining to the above, without further action of the Board, so long as the obligation created does not exceed the applicable appropriation within the District budget.

Bid Protest

A. A bidder who wishes to file a bid protest must file such notice and follow procedures prescribed by F.S. 120.57(3) for resolution. For bids solicited by Procurement Services, the notice must be filed with the General Manager of Procurement Services.

B. Any person who files an action protesting a decision or intended decision pertaining to a bid pursuant to F.S. 120.57(3)(b) shall post, at the time of filing the formal written protest, a bond payable to the Board in an amount of \$5,000 or three percent of the estimated value of the contract, whichever is greater, conditioned upon payment of all costs and fees which may be adjudged against the protestor in the administrative hearing. If at the hearing the Board prevails, it shall recover all costs excluding attorney's fees from the protestor; if the protestor prevails, the protestor shall recover from the Board all costs excluding attorney's fees.

C. Failure to file a notice of intent to protest, or failure to file a formal written protest within the time prescribed in F.S. 120.57(3), shall constitute a waiver of proceedings under F.S. Chapter 120.

Cone of Silence

The Cone of Silence prohibits any communication regarding an active competitive solicitation between any District employee or Board member and any third party, representative, or lobbyist of that party, unless pennitted in this section.

Any Board member, the Superintendent, Evaluation Committee Member, or any District employee is prohibited from having any communications concerning a solicitation for an active competitive procurement during the Cone of Silence period.

Any party, representative, or lobbyist of that party, is prohibited from having any communications concerning an active solicitation for a competitive procurement with any School Board member, the Superintendent, any Evaluation Committee Member, or any other District employee concerning a solicitation for a competitive procurement during the Cone of Silence period. Communication by any party, representative, or lobbyist of that party, regarding an active solicitation found to be in violation of this section may result in the rejection of their proposal and may include further sanctions.

Any communications, including but not limited to, matters of process, procedure, or protest must be submitted in writing and directed to the assigned procurement officer.

The Cone of Silence period shall go into effect and shall remain in effect from the time of release of the competitive solicitation until the contract is awarded by the Board. At the time of issuance of the solicitation, the

Superintendent or designee shall provide public notice of the Cone of Silence and shall include any such notice in advertisement or public solicitation for commodities and contractual services in a statement disclosing the requirements of this section.

Unless specifically provided otherwise in the applicable solicitation document, the Cone of Silence does not apply to:

- Oral communications at the pre-proposal or pre-bid conference.
- Communications during evaluation committee meetings including presentations, demonstrations, or interviews.
- Oral communications during any duly noticed Board meeting.

Debarment

Pursuant to the relevant Florida statutes and similar to F.S. 287.042(1)(b), the Superintendent shall have authority to debar a person/company for cause from consideration or award of future contracts. The debarment shall be for a period commensurate with the seriousness of the causes generally not to exceed three years.

F.S. 1001.43, 1010.04, 1013.45

F.A.C. 6A-1.012, 6A-2.0010

2 CFR Part 200.320

OMB M-18-18

Revised 9/21/2021

6A-1.012 Purchasing Policies.

Each district school board shall establish purchasing rules which shall include but not be limited by the following:

(1) Definitions:

(a) The term “competitive solicitation” shall be defined for the purposes of this rule to include purchasing made through the issuance of an invitation to bid, request for proposals and invitation to negotiate. Competitive solicitations are not required for purchases made through the pool purchase provisions of Section 1006.27, F.S.

(b) “Invitation to bid” shall be defined for the purposes of this rule as a written solicitation for competitive sealed bids. The invitation to bid is used when the district school board is capable of specifically defining the scope of work for which a contractual service is required or when the district school board is capable of establishing precise specifications defining the actual commodity or group of commodities required. A written solicitation includes a solicitation that is publicly posted.

(c) “Invitation to negotiate” shall be defined for the purposes of this rule as a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. The invitation to negotiate is used when the district school board determines that negotiations may be necessary for it to receive the best value. A written solicitation includes a solicitation that is publicly posted.

(d) The term “proposer” shall be defined for the purposes of this rule to include those vendors submitting bids or responses to a competitive solicitation.

(e) “Request for proposals” shall be defined for the purposes of this rule as a written solicitation for competitive sealed proposals. The request for proposals is used when it is not practicable for the district school board to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the district school board is requesting that a responsible vendor propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A written solicitation includes a solicitation that is publicly posted.

(f) The term “superintendent” shall be defined for the purposes of this rule to mean “superintendent or designee.”

(2) The superintendent may be authorized to purchase commodities or contractual services where the total amount does not exceed an amount prescribed by the school board, and does not exceed the applicable appropriation in the district budget. The superintendent may also be authorized to purchase commodities or contractual services under Department of Management Services state term contracts. Assistants functioning under the superintendent’s direction may be authorized to perform these purchasing tasks. No person, unless authorized to do so under the rules of the district school board, may make any purchase or enter into any contract involving the use of school funds; no expenditures for any such unauthorized purchase or contract shall be approved by the district school board.

(3) Before making any purchase of commodities or contractual services which the superintendent is authorized by the district school board to make or before recommending any purchase to the district school board, the superintendent shall, insofar as possible, propose standards and specifications. He or she shall see that the commodities or contractual services conform to those standards and specifications, and shall take such other steps as are necessary to see that the maximum value is being received for any money expended.

(4) In each school district in which the purchasing agent for any public agency is authorized by law to make purchases for the benefit of other governmental agencies within the county, the district school board shall have the option to purchase under the current contracts as may be established for any of the public agencies as set forth above at or below the unit price stated therein, if such purchase is to the economic advantage of the district school board, subject to conformance of the items of purchase to the standards and specifications prescribed by the superintendent for said district.

(5) As required by Section 1001.42(10)(j), F.S., the district school board shall receive and give consideration to the prices available to it under rules of the Department of Management Services, Division of Purchasing. District school boards may use prices established by the Division of Purchasing through its state purchasing agreement price schedule. If district school board policy provides for purchasing under this program of state purchasing agreements the conditions for use shall be those imposed on state agencies.

(6) In lieu of requesting competitive solicitations from three (3) or more sources, district school boards may make purchases at or below the specified prices from contracts awarded by other city or county governmental agencies, other district school boards, community colleges, federal agencies, the public or governmental agencies of any state, or from state university system cooperative bid agreements, when the proposer awarded a contract by another entity defined herein will permit purchases by a district school board at the same terms, conditions, and prices (or below such prices) awarded in such contract, and such purchases are to the

economic advantage of the district school board.

(7) Except as authorized by law or rule, competitive solicitations shall be requested from three (3) or more sources for any authorized commodities or contractual services exceeding \$50,000. Districts may not divide the procurement of commodities or contractual services so as to avoid this monetary threshold requirement. District school boards, by rule, shall set this amount or a lesser amount and shall establish purchasing policy relative to purchases of a dollar value less than this formal monetary threshold.

(8) The district school board shall have the authority to reject any or all proposals submitted in response to any competitive solicitation and request new proposals or purchase the required commodities or contractual services in any other manner authorized by this section.

(9) In acceptance of responses to invitations to bid, the district school board may accept the proposal of the lowest responsive, responsible proposer. In the alternative, the district school board may also choose to award contracts to the lowest responsive, responsible bidder as the primary awardee of a contract and to the next lowest responsive, responsible bidder(s) as alternate awardees from whom commodities or contractual services would be purchased should the primary awardee become unable to provide all of the commodities or contractual services required by the district school board during the term of the contract. Nothing herein is meant to prevent multiple awards to the lowest responsive and responsible bidders when such multiple awards are clearly stated in the bid solicitation documents.

(10) In acceptance of responses to requests for proposals, district school boards may award contracts to one or more responsive, responsible proposers in accordance with the selection criteria published in the request for proposal. The district school board is not required to request proposals for purchases made from contracts of the Department of Management Services as referenced in subsections (2) and (5) of this rule.

(11) The requirement for requesting competitive solicitations for commodities or contractual services from three or more sources is hereby waived as authorized by Section 1010.04(4)(a), F.S., for:

(a) The purchase by district school boards of professional services which shall include, without limitation, artistic services; academic program reviews; lectures by individuals; auditing services not subject to Section 218.391, F.S.; legal services, including attorney, paralegal, expert witness, court reporting, appraisal or mediator services; and health services involving examination, diagnosis, treatment, prevention, medical consultation or administration; and,

(b) The purchase by district school boards of educational services and any type of copyrighted materials including, without limitation, educational tests, textbooks, printed instructional materials, computer software, films, filmstrips, videotapes, dvds, disc or tape recordings, digital recordings, or similar audio-visual materials, and for library and reference books, and printed library cards where such materials are purchased directly from the producer or publisher, the owner of the copyright, an exclusive agent within the state, a governmental agency or a recognized educational institution; and,

(12) Additional exemptions authorized under certain conditions.

(a) The requirements for requesting competitive solicitations and making purchases for commodities and contractual services as set forth in this section are hereby waived as authorized by Section 1010.04(4)(a), F.S., when the following conditions have been met by the district school board:

1. Competitive solicitations have been requested in the manner prescribed by this rule; and,
2. The district school board has made a finding that no valid or acceptable firm proposal has been received within the prescribed time.

(b) When such a finding has been officially made, the district school board may enter into negotiations with suppliers of such commodities and contractual services and shall have the authority to execute contracts with such vendors under whatever terms and conditions as the district school board determines to be in its best interests;

(c) If less than two responsive proposals for commodity or contractual services are received, the district school board may negotiate on the best terms and conditions or decide to reject all proposals. The district school board shall document the reasons that negotiating terms and conditions with the sole proposer is in the best interest of the school district in lieu of resoliciting proposals;

(d) Commodities or contractual services available only from a single source may be exempted from the competitive solicitation requirements. When a district school board believes that commodities or contractual services are available only from a single source, the district school board shall electronically or otherwise publicly post a description of the commodities or contractual services sought for a period of at least 7 business days. The description must include a request that prospective vendors provide information regarding their ability to supply the commodities or contractual services described. If it is determined in writing by the district school board, after reviewing any information received from prospective vendors, that the commodities or contractual services are

available only from a single source, the district school board shall provide notice of its intended decision to enter a single source contract in the manner specified in Section 120.57(3), F.S., and may negotiate on the best terms and conditions with the single source vendor;

(e) District school boards may dispense with requirements for competitive solicitations for the emergency purchase of commodities or contractual services when the superintendent determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the school district requires emergency action. After the superintendent makes such a written determination, the district school board may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without requesting competitive solicitations. However, such an emergency purchase shall be made by obtaining pricing information from at least two prospective vendors, which must be retained in the contract file, unless the superintendent determines in writing that the time required to obtain pricing information will increase the immediate danger to the public health, safety, or welfare or other substantial loss to the school district;

(f) A contract for commodities or contractual services may be awarded without competitive solicitations if state or federal law, a grant or a state or federal agency contract prescribes with whom the district school board must contract or if the rate of payment is established during the appropriations process; and,

(g) A contract for regulated utilities or government franchised services may be awarded without competitive solicitations.

(13) Insofar as practicable, all purchases shall be based on contracts, purchasing card systems, electronic procurements or purchase orders. Within limits prescribed by the district school board, the superintendent shall be authorized to approve purchases under rules of the district school board; provided that in so doing, he or she shall certify that funds to cover the expenditures are authorized by the budget and have not been encumbered.

(14) A district school board, when acquiring, whether by purchase, lease, lease with option to purchase, rental or otherwise, information technology, as defined in Section 282.004(11), F.S., may make any acquisition through the competitive solicitation process as described herein or by direct negotiation and contract with a vendor or supplier, as best fits the needs of the school district as determined by the district school board.

(15) Except as otherwise required by statute, a district school board, when purchasing insurance, entering risk management programs, or contracting with third party administrators, may make any such acquisitions through the competitive solicitation process as described herein or by direct negotiations and contract.

Rulemaking Authority 1001.02(1), 1006.27, 1010.04 FS. Law Implemented 1001.42(4)(j), 1006.27, 1010.04 FS. History--New 12-17-65, Amended 5-24-67, 9-17-72, 4-19-74, 9-19-74, Repromulgated 12-5-74, Amended 2-21-77, 3-10-85, Formerly 6A-1.12, Amended 6-27-89, 7-5-90, 6-10-92, 6-29-93, 4-25-96, 4-14-97, 7-17-00, 2-25-09.

HCPS 2 CFR Self Certification FY2425

Final Audit Report

2024-07-17

Created:	2024-07-17
By:	Corey Murphy (corey.murphy@hcps.net)
Status:	Signed
Transaction ID:	CBJCHBCAABAAALecBy5gMITkA7nvox63RFP6rkClwc_Rc

"HCPS 2 CFR Self Certification FY2425" History

-  Document created by Corey Murphy (corey.murphy@hcps.net)
2024-07-17 - 8:57:36 PM GMT
-  Document emailed to romaneir.johnson@hcps.net for signature
2024-07-17 - 8:58:12 PM GMT
-  Email viewed by romaneir.johnson@hcps.net
2024-07-17 - 9:22:22 PM GMT
-  Signer romaneir.johnson@hcps.net entered name at signing as Romaneir Johnson
2024-07-17 - 9:24:05 PM GMT
-  Document e-signed by Romaneir Johnson (romaneir.johnson@hcps.net)
Signature Date: 2024-07-17 - 9:24:07 PM GMT - Time Source: server
-  Agreement completed.
2024-07-17 - 9:24:07 PM GMT