Gardiner - Randolph - Pittston - West Gardiner

Maine School Administrative District No. 11

150 Highland Avenue
Gardiner, ME 04345

Kady Gould
Superintendent of Schools

Phone: 207-582-5346
Fax: 207-582-8305
www.msad11.org

Angela Hardy
Director of Curriculum & Instruction

MERLE E. PEACOCK, JR. BOARD ROOM
POLICY COMMITTEE MEETING
October 01, 2026
5:30 pm

AGENDA

The meeting will also be live streamed and available for viewing at www.msad11.org.

I. Call to Order

II. Discussion/Vote

A. Policy Review

- DJ Bidding and Purchasing – Current
- DJ Bidding and Purchasing – Proposed
- DJ-R Federal Procurement Manual for Maine School Units – Administrative Procedure - Current
- DJ-R Federal Procurement Manual for Maine School Units – Administrative Procedure - Proposed
- DJH Purchasing and Contracting: Procurement Staff Code of Ethics
- CBI Evaluation of Superintendent
- ECAD Security Camera System
- GBB Staff Involvement in Decision Making
- GBEA Staff Ethics / Conflict of Interest
- GBEBB Staff Conduct with Students / Staff-Student Relations
- GBGB Workplace Bullying
- GBJ Personnel Records and Files
- GBN Family and Medical Leave
- GBP Earned Paid Leave

III. Adjourn

BIDDING/PURCHASING REQUIREMENTS

The MSAD 11 Board (hereafter, the "school unit") expects all purchases made by the school unit to be consistent with applicable laws and sound business practices. The Superintendent shall be responsible for developing and implementing administrative procedures for bidding and purchasing consistent with this policy.

This policy is intended solely as an internal guide to purchasing by the school unit. It does not afford any vendor any property or contractual rights against the school unit. No vendor shall have any enforceable rights against the school unit based upon this policy or alleged violations of this policy. No vendor shall have any rights against the school unit until such time as a written contract between the vendor and the school unit is executed by the vendor and an authorized representative of the school unit.

I. Bidding/Purchasing Required by Law

A. Maine Law

Maine law requires the Board to competitively bid property and casualty insurance; school bus and transportation contracts in excess of $4,000; certain school building construction, alterations and repairs over $250,000 (except contracts for professional architectural and engineering services); bond anticipation notes for state-subsidized school construction projects; and lease purchase financings of buildings whose lease purchase costs qualify for state subsidy.

B. Procurement Methods for Federally Funded Contracts

The Superintendent or their designee shall be responsible for developing, updating as necessary, and implementing written administrative procedures (hereafter, the "Federal Procurement Manual") to govern the procurement and purchase of property, goods, and services using any federal award that is subject to the Uniform Grant Guidance, codified at 2 CFR Part 200 ("UGG Federal Award"). The Federal Procurement Manual shall be consistent with all applicable federal laws and rules.

A "federal award" is any federal financial assistance (including cost-reimbursement contracts) that a school unit receives either directly from a federal agency or indirectly from a pass-through entity such as the State education department (2 CFR § 200.38). Most, but not all, federal awards received by a school unit are subject to the Uniform Grant Guidance. To confirm whether a federal award is subject to the Uniform Grant Guidance,

it will be necessary to review the terms and conditions of the applicable grant agreement or cooperative agreement and the applicability provisions of the Uniform Grant Guidance, codified at 2 CFR § 200.101.

Notwithstanding any policy provision to the contrary, the procurement and purchase of property, goods, and services using a UGG Federal Award, in whole or in part, must comply with the Federal Procurement Manual. Wherever this policy or any of the school unit's administrative procedures are inconsistent with federal laws or rules, the provisions of the federal laws or rules shall control.

II. Bidding/Purchasing Not Required by Law

Where bidding/purchasing is not required by law, it shall be the policy of the school unit to competitively bid purchases of equipment, supplies, materials or services over $25,000 provided that it is practical and cost-effective to specify the materials or services with sufficient particularity to allow meaningful comparison of bids.

If competitive bidding is not utilized, the Superintendent may seek Requests for Proposals (RFP) for purchases equal to or over $25,000. An RFP identifies the need the school unit intends to meet but permits the vendor to propose the manner in which the work is to be performed and the materials to be used.

The Superintendent may forego the competitive bid or RFP process for purchases less than $25,000, or when they determine that quality, expertise, time factors, or other important considerations outweigh the possible benefits of bidding or requesting proposals. In each such case, the Board shall be informed of the Superintendent's decision and the reasons for it in advance of entering into a contract.

III. Procedures for Bidding and Requesting Proposals

The method of notification that the school unit uses to solicit bids and proposals shall be reasonably designed to attract qualified vendors. Depending upon the circumstances, such notification may include public advertising, mailing of notices to potential vendors, and/or telephone calls to potential vendors (in the case of RFPs).

Competitive Bid Procedures

Unless other bid procedures are required by law, the school unit shall use the following procedures when soliciting competitive bids:

A. **Solicitation.** The solicitation shall specify the deadline for submitting bids and the time and place of bid opening. Bid alternates shall be permitted at

the discretion of the Superintendent. The solicitation shall reserve the right of the school unit to reject any or all bids, and to waive technical or immaterial non-conformities in bids if in the best interest of the school unit, and to exercise judgment in evaluating bids.

B. **Written bids.** Bids shall be in writing, sealed with outside envelope or wrapper plainly marked "Bid, not to be opened until (insert appropriate date)," and mailed or filed with the Superintendent of the unit.

C. **Time of opening.** A School Board member or employee of the school unit may not open a bid until the appointed time.

D. **Public opening.** At the time and place stated in the public notice, and open to the public, all bids shall be opened by the Superintendent or, in the Superintendent's absence or disability, by any School Board member designated for the purpose by the Chair of the School Board.

E. **Reading.** If any members of the public who are not School Board members or employees of the school unit or if any representatives of the press are present, bids shall, at that time, either be made available for examination by them or shall be read aloud in a manner to be heard plainly by those in attendance.

F. **Awards.** In general, the School Board will award contracts to the lowest bidder which the Superintendent and School Board deem can satisfactorily fulfill the contract.

RFP Procedures

Unless other RFP procedures are required by law, the school unit shall use the following procedures when soliciting requests for proposals:

A. **Solicitation.** The solicitation shall specify the deadline for submitting responses to the RFP and the time and place of proposal opening. The solicitation shall reserve the right of the school unit to reject any or all proposals, and to waive technical or immaterial non-conformities in proposals if in the best interest of the school unit, and to exercise judgment in evaluating proposals.

B. **Written Proposals.** Proposals should be submitted in plain envelopes clearly marked "Proposal, not to be opened until (state time and date)." The RFP shall state the time and date that proposals shall be opened, and no proposals shall be opened before that time. Public opening is not required.

C. **Evaluation and Awards.** Proposals are to be evaluated based on criteria appropriate for the project in question, and the contract will be awarded to

the vendor whom the Superintendent and/or School Board deem best able to meet the requirements of the school unit.

Legal Reference:
- 5 MRSA § 1743-A (ALL)
- 20-A MRSA §§ 1001(14), 5401(13)(D); 5402 (ALL)
- 20-A MRSA § 1314 (MSAD)
- 20-A MRSA § 1492 (RSU)
- Me. DOE Rule Ch. 61 (Rules for Major Capital School Improvement Projects)
- Me. DOE Rule Ch. 64 (Rules for Maine School Facilities Program and School Revolving Renovation Fund Program)
- 34 CFR parts 74 and 80 (Education Department General Administrative Regulations ("EDGAR") (for federal awards made prior to 12/26/2014)
- 2 CFR part 200 (Uniform Administrative Requirements) (for federal awards made on or after 12/26/2014)

Cross Reference:
- DJ-R – Federal Procurement Manual
- DJH – Purchasing and Contracting: Procurement Staff Code of Conduct

Adopted: April 1, 2021

Policy DJ Bidding and Purchasing Requirements

Proposed September 2026 Traditional Redline

Redline key ~~Deleted language~~ Added language

BIDDING AND PURCHASING REQUIREMENTS

The MSAD 11 Board (hereafter, the "school unit") expects all purchases made by the school unit to be consistent with applicable laws and sound business practices. The Superintendent shall be responsible for developing and implementing administrative procedures for bidding and purchasing consistent with this policy.

This policy is intended solely as an internal guide to purchasing by the school unit. It does not afford any vendor any property or contractual rights against the school unit. No vendor shall have any enforceable rights against the school unit based upon this policy or alleged violations of this policy. No vendor shall have any rights against the school unit until such time as a written contract between the vendor and the school unit is executed by the vendor and an authorized representative of the school unit.

I. Bidding and Purchasing Required by Law

A. Maine Law

~~Maine law requires the Board to competitively bid property and casualty insurance; school bus and transportation contracts in excess of $4,000; certain school building construction, alterations and repairs over $250,000 (except contracts for professional architectural and engineering services); bond anticipation notes for state-subsidized school construction projects; and lease purchase financings of buildings whose lease purchase costs qualify for state subsidy.~~

The school unit shall comply with all procurement requirements imposed by Maine law and applicable rules. These requirements include, but are not limited to, procurement of insurance under 20-A M.R.S. § 1001(14); school bus and transportation contracts under 20-A M.R.S. §§ 5401 and 5402; school construction, major alteration, and repair contracts under 5 M.R.S. § 1743-A; bond anticipation notes and financing for state-subsidized school construction projects; lease-purchase financing eligible for state subsidy; and procurement requirements applicable to projects funded or approved through the Maine Department of Education or Bureau of General Services. When a statute, rule, funding source, or approval imposes a lower threshold or more restrictive process than this policy, that requirement controls.

B. Procurement Methods for Federally Funded Contracts

The Superintendent or their designee shall be responsible for developing, updating as necessary, and implementing written administrative procedures (hereafter, the "Federal Procurement Manual") to govern the procurement and purchase of property, goods, and services using any federal award that is subject to the Uniform Grant Guidance, codified at 2 CFR Part 200 ("UGG Federal Award"). The Federal Procurement Manual shall be consistent with all applicable federal laws and rules.

A "federal award" is ~~any~~ federal financial assistance ~~(including cost-reimbursement contracts)~~ that ~~a~~the school unit receives ~~either~~ directly from a federal agency or indirectly ~~from~~through a pass-through entity such as the ~~State~~Maine ~~education~~Department ~~department~~of ~~(2~~Education. See 2 CFR § ~~200.38).~~200.1. ~~Most, but not all, federal awards received by a school unit are subject to the Uniform Grant Guidance. To confirm whether a federal award is subject to the Uniform Grant Guidance, it will be necessary to review the~~The terms and conditions of the applicable ~~grant~~federal ~~agreement or cooperative agreement~~award and the applicability provisions ~~of the Uniform Grant Guidance, codified at~~in 2 CFR § ~~200.101.~~200.101 must be reviewed to determine whether the Uniform Guidance applies.

Notwithstanding any policy provision to the contrary, the procurement and purchase of property, goods, and services using a UGG Federal Award, in whole or in part, must comply with the Federal Procurement

Manual. Wherever this policy or any of the school unit's administrative procedures are inconsistent with federal laws or rules, the provisions of the federal laws or rules shall control.

II. Bidding and Purchasing Not Required by Law

~~Where bidding/purchasing is not required by law, it shall be the policy of the school unit to competitively bid purchases of equipment, supplies, materials or services over $25,000 provided that it is practical and cost-effective to specify the materials or services with sufficient particularity to allow meaningful comparison of bids.~~

When competitive procurement is not otherwise required by law, rule, Board policy, grant requirement, or contract, the school unit shall use the following procedures based on the total reasonably anticipated cost of the procurement:

A. Purchases under $10,000 may be made without obtaining competitive quotations when the Superintendent or designee determines and documents that the price is reasonable.

B. For purchases of $10,000 or more but less than $50,000, the Superintendent or designee shall obtain at least three price or rate quotations from qualified sources when practicable. Quotations may be oral or written, but the procurement record must identify the sources contacted, the quotations received, and the basis for selection.

C. For purchases of $50,000 or more but less than $100,000, the Superintendent or designee shall obtain at least three written quotations or written proposals from qualified sources when practicable and shall document the evaluation and basis for selection.

~~If competitive bidding is not utilized, the Superintendent may seek Requests for Proposals (RFP) for purchases equal to or over $25,000. An RFP identifies the need the school unit intends to meet but permits the vendor to propose the manner in which the work is to be performed and the materials to be used.~~

D. Purchases of $100,000 or more must be procured through a formal, publicly advertised competitive bid, request for proposals (RFP), or request for qualifications (RFQ), as appropriate to the purchase. Competitive bidding is used when award can be made principally on price. An RFP is used when price and other stated factors will be evaluated. An RFQ or other qualifications-based process may be used for professional services when qualifications, expertise, and experience are the principal selection factors.

E. The applicable threshold is determined using the total reasonably anticipated cost of the procurement, including renewals, options, installation, maintenance, and other related or foreseeable costs. Related purchases may not be divided or structured to avoid a procurement requirement.

~~The Superintendent may forego the competitive bid or RFP process for purchases less than $25,000, or when they determine that quality, expertise, time factors, or other important considerations outweigh the possible benefits of bidding or requesting proposals. In each such case, the Board shall be informed of the Superintendent's decision and the reasons for it in advance of entering into a contract.~~

F. The Superintendent may use a noncompetitive procurement process when: (1) the purchase can be fulfilled by only one source; (2) an emergency or public exigency will not permit the delay caused by competition; (3) the purchase is made through an applicable state contract, cooperative purchasing agreement, or purchasing consortium that was competitively procured; (4) compatibility or standardization reasonably requires the purchase; (5) competition is determined inadequate after solicitation of qualified sources; or (6) another method is specifically authorized by law, rule, grant requirement, or the Board. The Superintendent or designee shall document the basis for the exception and inform the Board before entering into the contract when practicable, or as soon as practicable following an emergency purchase.

G. These procurement thresholds govern the method of procurement and do not alter the Superintendent's or Board's separate authority to approve or execute contracts.

III. Procedures for Bidding and Requesting Proposals

~~The method of notification that the school unit uses to solicit bids and proposals shall be reasonably designed to attract qualified vendors. Depending upon the circumstances, such notification may include~~

~~public advertising, mailing of notices to potential vendors, and/or telephone calls to potential vendors (in the case of RFPs).~~

The method of solicitation must be reasonably designed to provide full and open competition and attract qualified vendors. Formal procurements under Section II(D) must be publicly advertised. The school unit may also provide direct notice to potential vendors. Solicitations must clearly describe the goods or services sought, submission requirements, evaluation factors, contract requirements, and applicable deadlines.

Competitive Bid Procedures

Unless other bid procedures are required by law, the school unit shall use the following procedures when soliciting competitive bids:

A. Solicitation. The solicitation shall specify the deadline and method for submitting bids and the time and place of bid opening. It must clearly describe the specifications and all factors to be used in determining the lowest responsive bid. Bid alternates ~~shall~~may be permitted at the discretion of the Superintendent. The solicitation shall reserve the ~~right of the~~ school ~~unit~~unit's right to reject any or all ~~bids,~~bids and ~~to~~ waive technical or immaterial ~~non-conformities~~nonconformities ~~in bids if~~when in the school unit's best ~~interest of the school unit, and to exercise judgment in evaluating bids.~~interest.

B. Written ~~bids.~~and ~~Bids~~Sealed ~~shall~~Bids. When sealed bids are required by Maine law or the solicitation, bids must be submitted in writing, ~~sealed with outside envelope or wrapper~~sealed, plainly marked "Bid, not to be opened ~~until~~until" ~~(insert~~with ~~appropriate~~the ~~date),"~~applicable date and time, and mailed or filed with the ~~Superintendent~~Superintendent. ~~of~~When sealed bids are not legally required, the ~~unit.~~solicitation may authorize secure electronic submission provided bids remain inaccessible until the submission deadline.

C. Time of Opening. A School Board member or employee of the school unit may not open a bid until the appointed time.

D. Public Opening. At the time and place stated in the public notice, and open to the public, all bids shall be opened by the Superintendent or, in the Superintendent's absence or disability, by any School Board member designated for the purpose by the Chair of the School Board.

E. Reading. If any members of the public who are not School Board members or employees of the school unit or if any representatives of the press are present, bids shall, at that time, either be made available for examination by them or shall be read aloud in a manner to be heard plainly by those in attendance.

~~F. Awards. In general, the School Board will award contracts to the lowest bidder which the Superintendent and School Board deem can satisfactorily fulfill the contract.~~

F. Awards. A competitively bid contract will ordinarily be awarded to the lowest responsive and responsible bidder. The Superintendent and School Board may consider bidder responsibility, compliance with specifications, life-cycle cost, delivery, past performance, and other factors identified in the solicitation. Any decision not to select the lowest responsive bid must be documented in writing.

RFP and RFQ Procedures

Unless ~~other~~another ~~RFP~~procedure ~~procedures are~~is required by law, rule, or a funding source, the school unit shall use the following procedures when soliciting ~~requests~~proposals ~~for~~or ~~proposals:~~qualifications:

A. Solicitation. The solicitation shall ~~specify~~state the submission deadline ~~for~~and ~~submitting~~method, ~~responses~~scope ~~to~~of ~~the~~work, ~~RFP~~contract requirements, evaluation criteria and their relative importance, and the ~~time~~evaluation and ~~place~~selection ~~of~~process. ~~proposal opening. The solicitation~~It shall reserve the ~~right of the~~ school ~~unit~~unit's right to reject any or all ~~proposals,~~responses and ~~to~~ waive technical or immaterial ~~non-conformities~~nonconformities ~~in proposals if~~when in the school unit's best ~~interest of the school unit, and to exercise judgment in evaluating proposals.~~interest.

~~B. Written Proposals. Proposals should be submitted in plain envelopes clearly marked "Proposal, not to be opened until (state time and date)." The RFP shall state the time and date that proposals shall be opened, and no proposals shall be opened before that time. Public opening is not required.~~

B. Written Responses. Proposals and qualifications must be submitted in writing. The solicitation may authorize sealed paper or secure electronic submissions, but responses may not be accessed before the submission deadline. Public opening is not required unless specified in the solicitation or required by law.

~~C. Evaluation and Awards. Proposals are to be evaluated based on criteria appropriate for the project in question, and the contract will be awarded to the vendor whom the Superintendent and/or School Board deem best able to meet the requirements of the school unit.~~

C. Evaluation and Award. Responses must be evaluated using the criteria stated in the solicitation. Evaluators shall disclose actual or apparent conflicts of interest and document their evaluations. An RFP contract will be awarded to the responsible proposer whose proposal is most advantageous to the school unit, considering price and other stated factors. An RFQ contract will be awarded or negotiated in accordance with the qualifications-based process described in the solicitation. The award remains subject to applicable Superintendent and Board approval authority.

Legal Reference

~~5 MRSA § 1743-A (ALL)~~
~~20-A MRSA §§ 1001(14), 5401(13)(D); 5402 (ALL)~~
~~20-A MRSA § 1314 (MSAD)~~
~~20-A MRSA § 1492 (RSU)~~
~~Me. DOE Rule Ch. 61 (Rules for Major Capital School Improvement Projects)~~
~~Me. DOE Rule Ch. 64 (Rules for Maine School Facilities Program and School Revolving Renovation Fund Program)~~
~~34 CFR parts 74 and 80 (Education Department General Administrative Regulations ("EDGAR") (for federal awards made prior to 12/26/2014)~~
~~2 CFR part 200 (Uniform Administrative Requirements) (for federal awards made on or after 12/26/2014)~~

5 M.R.S. § 1743-A
20-A M.R.S. §§ 1001(14), 1314, 5401(13)(D), and 5402
Maine DOE Rule Chapters 61 and 64
2 CFR Part 200

Cross Reference

DJ-R – Federal Procurement Manual
DJH – Purchasing and Contracting: Procurement Staff Code of Conduct

Adopted: April 1, 2021

Proposed Amendment: September 2026

ADMINISTRATIVE PROCEDURE DJ-R:
FEDERAL PROCUREMENT MANUAL FOR MAINE SCHOOL UNITS

FEDERAL PROCUREMENT MANUAL
(For School Unit Procurements Using Federal Awards Subject to Uniform Grant Guidance)

Updated January 2021

This Federal Procurement Manual governs the procurement and purchase of property, goods, and services using any federal award; in whole or in part, that is subject to the Uniform Grant Guidance, codified at 2 CFR Part 200.

To the extent necessary or convenient, the Superintendent or ~~his or her~~ their designee, shall implement further written measures to ensure compliance with these procedures and any applicable federal laws and rules, including any applicable provisions of the Uniform Grant Guidance and the federal award terms and conditions. Any such written measures shall be made part of this manual. In addition, the Superintendent or ~~his or her~~ their designee, should review and update this manual at least every five years, on a cycle roughly corresponding with the five-year Federal review of the Uniform Grant Guidance as provided in 2 CFR § 200.109.

A. OVERVIEW

The School Board expects all procurements of property, goods, or services made by the school unit using federal awards to be consistent with sound business practices and applicable federal laws and rules, including the Uniform Grant Guidance.

These administrative procedures, in combination with the school unit's written policies—including but not limited to Policy DJ (Bidding/Purchasing Requirements) and Policy DJH (Purchasing and Contracting: Procurement Staff Code of Conduct)—are intended to comply with the federal requirement that the school unit must (1) use its own documented procurement procedures consistent with applicable federal, state, and local laws and regulations and, more specifically, conform to the procurement standards identified in 2 CFR §§ 200.317 through 200.327; and (2) maintain written standards of conduct covering conflicts of interest—real and perceived—for staff engaged in the selection, awarding, or administration of a contract. (2 CFR § 200.318(a), (c).)

The Superintendent or their designee, acting singly, (the "Purchasing Agent") shall be responsible for implementing these administrative procedures and shall have direction and control over the purchasing of property, goods, and services for the school unit using federal funds.

[1] A "federal award" is any federal financial assistance (including cost-reimbursement contracts) that a school unit receives either directly from a federal agency or indirectly from a pass-through entity such as the State education department. *See* 2 CFR § 200.1. Most, but not all, federal awards received by the school unit are subject to the Uniform Grant Guidance. To confirm whether a federal award is subject to the Uniform Grant Guidance, review the terms and conditions of the applicable grant agreement or cooperative agreement and the applicability provisions of the Uniform Grant Guidance, codified at 2 CFR § 200.101.

Wherever these administrative procedures are inconsistent with applicable federal laws and rules, or the terms and conditions of a federal award, the provisions of the applicable federal laws, rules, or award terms and conditions shall control.

B. GENERAL PROCUREMENT PROCEDURES

1. **Full and Open Competition.** All procurements must be conducted in a manner that provides full and open competition. Real or perceived unfair advantages will be avoided. Accordingly, the school unit will not (i) place unreasonable requirements on firms or vendors to qualify for a procurement, (ii) require unnecessary experience or use excessive bonding, (iii) use noncompetitive pricing practices between firms or affiliated companies, (iv) allow organizational conflicts of interest, (v) specify a "brand name" product without allowing firms or vendors to offer an equal alternate product, or (vi) allow any arbitrary action in the procurement process. To ensure objective contractor performance and eliminate unfair competitive advantage, firms or vendors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements. (2 CFR § 200.319(a), (b).)

2. **Responsible Contractors.** The school unit must award contracts only to responsible contractors who are able 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. (2 CFR § 200.318(h).)

3. **Oversight of Contractors.** The school unit must maintain a contract administration and oversight system to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (2 CFR§ 200.318(b).)

4. **Fostering Economy and Efficiency.** The school unit must avoid purchasing unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase, and to using federal surplus equipment and property. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. To foster greater economy and efficiency, consideration should also be given to: (i) entering into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services, (ii) using federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs, and (iii) using value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. (2 CFR § 200.318(d)-(g).)

5. **Geographic Preferences Prohibited; Domestic Preferences for U.S. Goods, Products, or Materials Encouraged.** The school unit must conduct procurements so as to prohibit the use of statutorily or administratively imposed state or local geographic preferences in

the evaluation of bids or proposals, except (i) where applicable federal statutes expressly mandate or encourage geographic preference or (ii) when contracting for architectural and engineering (A/E) services, so long as its application leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project. As appropriate and to the extent consistent with law, the school unit 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 a Federal award. For purposes of this section, "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. For purposes of this section, "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. (2 CFR §§ 200.319(c), 200.322.)

6. **Clear and Accurate Technical Requirements.** The school unit must have written procedures for procurement transactions that incorporate a clear and accurate description of the technical requirements for the goods or services to be procured, identify all requirements which offerors must fulfill, and identify all other factors to be used in evaluating solicitations. Technical descriptions (i) must not, in competitive procurements, contain features which unduly restrict competition; (ii) may include a statement of the qualitative nature of the goods or services to be procured; (iii) when necessary, must set forth those minimum essential characteristics and standards to which goods or services must conform if they are to satisfy their intended use; (iv) should avoid detailed product specifications if possible; and (v) may use a brand name or equivalent description as a means to define performance or other salient requirements of procurement when it is impractical or uneconomical to make a clear and accurate description of the technical requirements (the specific features of the named brand which must be met by offerors must be clearly stated). (2 CFR § 200.319(d).)

7. **Prequalified Contractor Lists.** The school unit 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. The school unit must not preclude potential bidders from qualifying during the solicitation period. (2 CFR § 200.319(e).)

8. **Procurement of Items Made with Recovered Materials.** The school unit 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 certain items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, Subpart B that contain the highest percentage of recovered materials, as long as the item is available at a reasonable price and within a reasonable time, and a satisfactory level of competition is maintained. This applies when the school unit

purchases $10,000 or more worth of a designated item during a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more. Section 6002 also requires 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. (2 CFR § 200.323; 40 CFR § 247.2(a)(1).)

C. PROCUREMENT METHODS AND THRESHOLDS

1. **Methods of Procurement.** The school unit must use one of the following five methods of procuring goods or services: micro-purchases, small purchases, sealed bids, competitive proposals (a.k.a. requests for proposals), and non-competitive proposals (a.k.a. sole source procurement). (2 CFR § 200.320.)

   a. *Micro-purchases (less than $10,000 as of November 12, 2020).* Micro-purchases up to the federal micro-purchase threshold ($10,000 as of November 12, 2020)[2] may be made without soliciting competitive quotations if the Purchasing Agent considers the price to be reasonable based on research, experience, purchase history, or other information and documents. To the maximum extent practicable, the Purchasing Agent must distribute micro-purchases equitably among qualified suppliers, vendors, or firms. (2 CFR §§ 200.67, 200.320(a)(1).)

   On an annual basis, a school unit may establish a micro-purchase threshold higher than the federal micro-purchase threshold, up to $50,000. The school unit must maintain documentation, which must be made available to the federal awarding agency and auditors in accordance with 2 CFR § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following: (i) a qualification as a low-risk auditee, in accordance with the criteria in 2 CFR § 200.520 for the most recent audit; (ii) an annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or (iii) for public institutions, a higher threshold consistent with state law. (2 CFR § 320(a)(1)(iv).

   b. *Small Purchases ($250,000 or less as of November 12, 2020).* Small purchases up to the federal simplified acquisition threshold ($250,000 as of November 12, 2020)[3]

---

[2] For procurements utilizing federal funds obtained prior to November 12, 2020, the micro-purchase threshold is $3,500. The threshold is subject to adjustment every five years in the Federal Acquisition Regulations.

[3] For procurements utilizing federal funds obtained prior to November 12, 2020, the simplified acquisition threshold is $150,000. The threshold is subject to adjustment every five years in the Federal Acquisition Regulations ("FAR"). The school unit is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; however, in no circumstances can this threshold exceed the dollar value established in the FAR (48 CFR part 2, subpart 2.1) for the simplified acquisition threshold. The school unit should determine if local government laws on purchasing apply. (2 CFR § 200.1 — *see* definition of "simplified acquisition threshold.")

may be made using simple, informal procurement methods and without requiring sealed bids. For any such purchases, the Purchasing Agent must obtain price or rate quotes from an adequate number of qualified vendors or firms (preferably, from at least three qualified vendors or firms). The Purchasing Agent shall document any price or rate quotes received, whether written or oral. (2 CFR §§ 200.88, 200.320 (a (2).)

e. *Sealed Bids (over $250,000 as of November 12, 2020).* For purchases in excess of the federal simplified acquisition threshold ($250,000 as of November 12, 2020) sealed bidding is used if (i) a complete, adequate, and realistic specification or purchase description is available; (ii) two or more responsible bidders are willing and able to compete effectively for the business; and (iii) 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. This is the preferred method for procuring construction. If sealed bids are used, the following requirements apply:

- 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;
- The invitation for bids must be publicly advertised;
- 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;
- All bids will be opened at the time and place prescribed in the invitation for bids;
- The bids must be opened publicly;
- A firm fixed price (lump sum or unit price) contract award will be made in writing to the lowest responsive and responsible bidder whose bid conforms to all material terms and conditions of the invitation to bid. Where specified in bidding documents, factors such as discounts, transportation costs, 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
- Any or all bids may be rejected if there is a sound documented reason. (2 CFR §§ 200.88, 200.320(b)(1).)

d. *Requests for Proposals (over $250,000 as of November 12, 2020).* For purchases in excess of the simplified acquisition threshold ($250,000 as of November 12, 2020), this procurement method is used when conditions are not appropriate for the use of sealed bids. Typically, a request for proposals ("RFP") seeks proposals that are evaluated qualitatively such that price is not the primary evaluation criterion.

Contracts may be awarded on either a fixed price or cost-reimbursement basis. If this procurement method is used, the following requirements apply:

- RFPs must be publicized and identify all evaluation factors and their relative importance. Any response to an RFP must be considered to the maximum extent practical;
- The RFP must identify the method to be used by the school unit for conducting technical evaluations of the proposals received and making selections;
- Proposals must be solicited from an adequate number of qualified offerors ; and
- The Purchasing Agent must award a contract to the responsible offeror whose proposal is most advantageous to the school unit, with price and other factors considered; however, any and all proposals may be rejected if there is a sound documented reason.

The Purchasing Agent 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 method, where price is not used as a selection factor, may only be used in procurement of A/E professional services. It cannot be used to purchase other types of services even if A/E firms are a potential source to perform the proposed effort. (2 CFR § 200.320(b)(2).)

e. Non-Competitive Proposals (Sole Source); Emergencies. Procurements may be made through a non-competitive process (i.e., through the solicitation of a proposal from only one source) only when one or more of the following circumstances apply:

- The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see Section C.I.a, above);
- The item is available only from a single source;
- A 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 non-competitive proposals in response to a written request from the school unit; or
- After solicitation of a number of sources, competition is determined inadequate.

The Purchasing Agent must document the basis for the sole source procurement by documenting the basis for any exigency or emergency, obtaining express

authorization from the federal awarding agency or pass-through entity, or demonstrating a good faith effort on the part of the school unit to solicit proposals from a number of sources. (2 CFR §§ 200.320(c), 200.324(b)(2).)

2. **Purchases Over $25,000.** For purchases exceeding $25,000, prior to contracting with a vendor, the Purchasing Agent shall use the System for Award Management (SAM) to search for the vendor by name, tax identification number, or another characteristic to make sure that the vendor has not been suspended or debarred from performing federally funded work. (2 CFR §§ 200.206(d), 180.220.)

3. **Purchases Over the Simplified Acquisition Threshold ($250,000 as of November 12, 2020).** The following additional procedures apply to purchases exceeding the simplified acquisition threshold:

   a. Cost/Price Analysis.

   (i) The Purchasing Agent must perform a cost or price analysis in connection with every procurement in excess of the simplified acquisition threshold, including contract modifications. The method and degree of analysis depends on the facts surrounding the particular situation, but as a starting point, the Purchasing Agent must make independent estimates before receiving bids or proposals.

   (ii) The Purchasing Agent 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.

   (iii) Costs or prices based on estimated costs for contracts under a federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable under Subpart E (Cost Principles) of 2 CFR Part 200. The school unit may reference its own cost principles that comply with the federal cost principles.

   (iv) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

   (2 CFR § 200.324.)

   b. Bonding Requirements. For construction or facility improvement contracts or subcontracts in excess of the simplified acquisition threshold, the following bonds, or equivalent, are required:

(i) A bid guarantee from each bidder equivalent to 5% 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;

(ii) A performance bond on the part of the contractor for 100% of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and

(iii) A payment bond on the part of the contractor for 100% 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. (2 CFR § 200.326.)

D. CONTRACTING WITH SMALL & MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

The Purchasing Agent must take all necessary affirmative steps to assure that small & minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small & minority businesses and women's business enterprises on solicitation lists;

2. Assuring that small & 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 & minority businesses and women's business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small & 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 allowed, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

(2 CFR § 200.321.)

E. CONTRACTS ARISING FROM PROCUREMENTS

1. **Contract Administrator.** Prior to the execution of a contract funded by a federal award, the school unit should name a Contract Administrator. The Contract Administrator is responsible for the tasks, technical requirements, service performance, and verification that payments are in compliance with the contract.

2. **Contract Type.** The school unit may use a time-and-materials type contract (i.e., a contract whose cost to the school unit 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) only if the school unit determines that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk. The school unit must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. (2 CFR § 200.318(j).)

3. **Contract Provisions.** Any contract entered into between the school unit and a firm or vendor who is to be compensated using a federal award or a portion thereof must contain the applicable contract provisions described in Appendix 1. (2 CFR § 200.327.)

4. **Subrecipient and Contractor Determinations.** The school unit must make case-by-case determinations whether each agreement it makes for the disbursement of federal funds casts the party receiving the funds in the role of a subrecipient or a contractor. The school unit must make this classification using its judgment based on the following factors, as well as any additional guidance supplied by the federal awarding agency:

   a. *Contractors.* A contract is for the purpose of obtaining goods and services for the party's own use and creates a procurement relationship with the contractor. *(See* 2 CFR § 200.1.) Characteristics indicative of a procurement relationship between the school unit and a contractor are when the contractor (i) provides the goods and services within normal business operations; (ii) provides similar goods or services to many different purchasers; (iii) normally operates in a competitive environment; (iv) provides goods or services that are ancillary to the operation of the federal program; and (v) is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.

   b. *Subrecipients.* A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. *(See* 2 CFR § 200.1.) Characteristics which support the classification of a party receiving federal funds as a subrecipient include when the party (i) determines who is eligible to receive what federal assistance; (ii) has its performance measured in relation to whether objectives of a federal program were met; (iii) has responsibility for programmatic decision making; (iv) is responsible for adherence to applicable federal program requirements specified in the federal award; and (v) in accordance with its agreement, uses the federal funds to carry out a program for a public purpose

specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

If the party receiving the funds is classified by the school unit as a subrecipient, the school unit must:

(i) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the information required by 2 CFR § 200.331.

(ii) Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described below, which may include consideration of such factors as: (a) the subrecipient's prior experience with the same or similar subawards; (b) the result of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements—of 2 CFR Part 200, and the extent to which the same or similar subaward has been audited as a major program; (c) whether the subrecipient has new personnel or new or substantially changed systems; and (d) the extent and results of federal awarding agency monitoring.

(iii) Consider imposing specific subaward conditions upon a subrecipient as described in 2 CFR § 200.208.

(iv) Monitor the activities of the subrecipient as necessary, and as further provided in 2 CFR § 331, to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

(v) Verify that each subrecipient is audited as required by Subpart F (Audit Requirements) of 2 CFR Part 200 when it is expected that the subrecipient's federal awards expanded during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR § 200.501.

(vi) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the school unit's own records.

(vii) Consider taking enforcement action against noncompliant subrecipients as described in 2 CFR § 200.338.

(2 CFR §§ 200.330, 200.331.)

F. RECORDS

1. **Recordkeeping**. The school unit must maintain records sufficient to detail the history of procurement. Records must include the following: (i) rationale for the method of procurement, (ii) selection of contract type, (iii) contract selection or rejection, and (iv) the basis for the contract price.

2. **Record Retention Requirements**. The school unit must maintain records related to each federal procurement for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or school unit in the case of a subrecipient. The following exceptions apply:

a. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

b. When the school unit is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

c. Records for real property and equipment acquired with federal funds must be retained for 3 years after final disposition.

d. When records are transferred to or maintained by the federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the school unit.

e. Records for program income transactions after the period of performance. In some cases, federal fund recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the school unit's fiscal year in which the program income is earned.

f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

   If the proposal, plan, or other computation is required to be submitted to the federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

If the proposal, plan, or other computation is not required to be submitted to the federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(2 CFR §§ 200.318(i), 200.333.)

G. PROTESTS AND CLAIMS

The school unit is solely responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements of goods or services under federal awards. Except as may be otherwise provided in a written request for proposals or other solicitation of the school unit, these procedures are available to proposers for the purpose of handling and resolving disputes relating to such procurements, including evaluation and selection, protests of awards, disputes, and claims relating to the selection process and contract award.[4] A protestor must exhaust all of these administrative remedies before pursuing a protest with the federal grant agency or in any court of law. For purposes of this section, the term "proposer" means any person or entity that has submitted a bid or a proposal in response to an RFP or other solicitation to the school unit, or a person or entity that is a prospective bidder or offeror and who has a demonstrated direct economic interest in the results of the procurement.

1. **Protest Submission Requirements.** To be considered by the school unit, a protest must be made in writing, supported by sufficient information to enable the protest to be fairly evaluated, and submitted within the time periods set forth herein. At minimum, protests must include (i) the name, phone number, and address of the protester; (ii) identification of the detailed and specific provision(s) of applicable federal or state law which would be allegedly violated by the procurement; (iii) copies of all exhibits, evidence, or documents supporting the protest; and (iv) a concise description of all remedies or relief requested.

2. **Pre-Award Protests.** Pre-award protests are protests based upon the content of the solicitation documents. Any protest to the terms, conditions, or specifications set forth in a solicitation must be submitted to the Purchasing Agent or the contract administrator, if a contract administrator is identified in the solicitation, within 5 calendar days after the issuance of the solicitation. All such protests will be considered by the Purchasing Agent, or the contract administrator as appropriate, prior to the solicitation due date, and a written decision will be provided to the protestor. A decision of the Purchasing Agent or contract administrator is final, and no further protest or appeal of the terms, conditions, or specifications of any solicitation will be considered by the School Board.

[4] These protest procedures are not available to contractors or third parties for the purpose of handling and resolving disputes, claims or litigation arising in the course of contract formation or contract administration. Any such disputes, claims or litigation will be handled and resolved in accordance with applicable contract terms, if any, and applicable law.

3. **Protests of Proposal Evaluations and Award Decision.** Proposers shall be notified of any award decision by a written or oral notice of the award. This notice shall be transmitted to each proposer at the address, email address, or telephone number contained in its proposal. Any proposer whose proposal has not lapsed may protest an award decision on any ground arising from the evaluation of proposals or the award decision, but not on any ground specified in the "Pre-Award Protests" category, above. Any such protest must be submitted to the Purchasing Agent or the contract administrator, if a contract administrator is identified in the solicitation, within 3 calendar days after notice of the award. All such protests will be considered by a Protest Review Subcommittee, composed of members selected by the School Board in its sole discretion. A written decision from the Protest Review Subcommittee stating the grounds for allowing or denying the protest shall be transmitted to the protestor before a final contract award is made. A decision of the Protest Review Subcommittee is final, and no further protest or appeal will be considered by the School Board.

(2 CFR § 200.318(k).)

H. FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY REVIEW

1. The school unit 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 school unit 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.

2. The school unit 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:

   a. The school unit's procurement procedures or operation fails to comply with the procurement standards in 2 CFR Part 200;

   b. 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;

   c. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product;

   d. 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

e. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

The school unit is exempt from the pre-procurement review in this paragraph if the federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of 2 CFR Part 200.

3. The school unit 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.

4. The school unit 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 school unit that it is complying with these standards. The school unit must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

(2 CFR § 200.325.)

I. EXCEPTIONS TO THESE ADMINISTRATIVE PROCEDURES

The requirements set forth in these administrative procedures do not apply to:

1. Block grant awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services);

2. Federal awards to local education agencies under 20 U.S.C. 7702-7703b (portions of the Impact Aid program, including federal payments relating to federal acquisition of school property and federal payments for students residing on military installations or Indian lands);

3. Federal awards authorized under the Child Care and Development Block Grant Act of 1990, as amended;

4. Classes of federal awards or non-federal entities identified as exceptions by the Office of Management and Budget; or

5. Any circumstance where the provisions of federal statutes or regulations differ from the provisions of Part 200 of Title 2 of the Code of Federal Register.

(2 C.F.R. §§ 200.101, 200.102.)

Legal Reference: 34 CFR Parts 74 and 80 (Education Department General Administrative Regulations ("EDGAR")) (for federal awards made prior to 12/26/2014)

2 CFR Part 200 (Uniform Administrative Requirements) (for federal awards made on or after 12/26/2014)

Cross Reference: DJ — Bidding/Purchasing
DJH — Purchasing and Contracting: Procurement Staff Code of Conduct

Adopted: August 3, 2017

Amended: March 5, 2020, November 7, 2024

APPENDIX I. REQUIRED CONTRACT PROVISIONS

All contracts made by the school unit for the procurement of property, goods, or services using a federal award must contain provisions covering the following, as applicable:

A. **Remedies (over $250,000).** Contracts for more than the simplified acquisition threshold (currently $250,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and must provide for such sanctions and penalties as appropriate.

B. **Termination for Cause and Convenience (over $10,000).** All contracts in excess of $10,000 must address termination for cause and for convenience by the school unit, including the manner by which it will be effected and the basis for settlement.

C. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.360-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

D. **Davis-Bacon Act, Copeland "Anti-Kickback" Act (construction contracts over $2,000).** When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by the school unit must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part *5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").* In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The school unit must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The school unit must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, *"Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").* The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The school unit must report all suspected or reported violations to the Federal awarding agency.

E. **Contract Work Hours and Safety Standards Act (over $100,000).** Where applicable, all contracts awarded by the school unit in excess of $100,000 that involve the employment of

mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

F. **Rights to Inventions Made Under a Contract or Agreement.** If the federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment, or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, *"Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,"* and any implementing regulations issued by the awarding agency.

G. **Clean Air Act; Federal Water Pollution Control Act (over $150,000).** Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H. **Debarment and Suspension.** A contract award *(see* 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), *"Debarment and Suspension."* SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

I. **Byrd Anti-Lobbying Amendment (over $100,000).** Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

J. **Domestic Preference.** As appropriate and to the extent consistent with law, the school unit 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 a Federal award. For purposes of this section, "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. For purposes of this section, "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. *See* 2 CFR § 200.322.

K. **Procurement of Items Made with Recovered Materials.** The contractor 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, Subpart B that contain the highest percentage of recovered materials, as long as the item is available at a reasonable price and within a reasonable time, and a satisfactory level of competition is maintained. This applies when the school unit purchases $10,000 or more worth of a designated item during a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more. Section 6002 also requires 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. *See* 2 CFR § 200.323; 40 CFR § 247.2(a)(1).

L. **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.** Contractors are prohibited from obligating or expending loan or grant funds to (i) procure or obtain; (ii) extend or renew a contract to procure or obtain; or (iii) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). *See* 2 CFR § 200.216.

Administrative Procedure DJ R

Federal Procurement Manual for Maine School Units

Proposed September 2026 Traditional Redline

Redline key. ~~Deleted language~~ Added language

Summary of Recommended Changes

Area	Proposed Update
Thresholds	$15,000 micro-purchase threshold and $350,000 simplified acquisi effective October 1, 2025.
Local controls	The most restrictive applicable federal, state, local, Board, program requirement controls.
Annual review	Annual check for threshold, regulatory, and award-term changes.
Competition	Updated prequalified-list rules and geographic-preference languag
Contractors	Proper employee classification added to the responsible-contractor
Business outreach	Veteran-owned businesses added to the affirmative procurement p
Domestic sourcing	Infrastructure-specific Buy America reference added.
Citations	Obsolete citations and drafting errors corrected.

:

FEDERAL PROCUREMENT MANUAL FOR MAINE SCHOOL UNITS

FEDERAL PROCUREMENT MANUAL

(For School Unit Procurements Using Federal Awards Subject to Uniform Grant Guidance)
~~Updated~~Proposed ~~January~~Update ~~2021~~September 2026 This Federal Procurement Manual governs the procurement and purchase of property, goods, and services using any federal award; in whole or in part, that is subject to the Uniform Grant Guidance, codified at 2 CFR Part 200. To the extent necessary or convenient, the Superintendent or ~~his or her~~ their ~~designee,~~designee shall implement further written measures to ensure compliance with these procedures and any applicable federal laws and rules, including any applicable provisions of the Uniform Grant Guidance and the federal award terms and conditions. Any such written measures shall be made part of this manual. In addition, the Superintendent or ~~his or her~~ their ~~designee,~~designee ~~should~~shall review ~~and update~~ this manual annually for changes in federal acquisition thresholds, award terms, and other applicable requirements, and shall complete a comprehensive review at least every five ~~years,~~years ~~on~~in ~~a cycle roughly corresponding~~accordance with ~~the five-year Federal review of the Uniform Grant Guidance as provided in~~ 2 CFR § 200.109.

A. OVERVIEW The School Board expects all procurements of property, goods, or services made by the school unit using federal awards to be consistent with sound business practices and applicable federal laws and rules, including the Uniform Grant Guidance. These administrative procedures, in combination with the school unit's written policies — including but not limited to Policy DJ (Bidding/Purchasing Requirements) and Policy DJH (Purchasing and Contracting: Procurement Staff Code of Conduct) —are intended to comply with the federal requirement that the school unit must (1) use its own documented procurement procedures consistent with applicable federal, state, and local laws and regulations and, more specifically, conform to the procurement standards identified in 2 CFR §§ 200.317 through
200.327; and (2) maintain written standards of conduct covering conflicts of interest —real and perceived—for staff engaged in the selection, awarding, or administration of a contract. (2 CFR § 200.318(a), (c).) The Superintendent or their designee, acting singly, (the "Purchasing Agent") shall be responsible for implementing these administrative procedures and shall have direction and control over the purchasing of property, goods, and services for the school unit using federal funds. 1A "federal award" is any federal financial assistance (including cost-reimbursement contracts) that a school unit receives either directly from a federal agency or indirectly from a pass-through entity such as the State education department. See 2 CFR § 200.1. Most, but not all, federal awards received by the school unit are subject to the Uniform Grant Guidance. To confirm whether a federal award is subject to the Uniform Grant Guidance, review the terms and conditions of the applicable grant agreement or cooperative agreement and the applicability provisions of the Uniform Grant Guidance, codified at 2 CFR § 200.101.

Wherever these administrative procedures are inconsistent with applicable federal laws and rules, or the terms and conditions of a federal award, the provisions of the applicable federal laws, rules, or award terms and conditions shall control.

B. GENERAL PROCUREMENT PROCEDURES
1. Full and Open Competition. All procurements must be conducted in a manner that provides full and open competition. Real or perceived unfair advantages will be avoided. Accordingly, the school unit will not (i) place unreasonable requirements on firms or vendors to qualify for a procurement, (ii) require unnecessary experience or use excessive bonding, (iii) use noncompetitive pricing practices between firms or affiliated companies, (iv) allow organizational conflicts of interest, (v) specify a "brand name" product without allowing firms or vendors to offer an equal alternate product, or (vi) allow any arbitrary action in the procurement process. To ensure objective contractor performance and eliminate unfair competitive advantage, firms or vendors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals must be excluded from competing for such procurements. (2 CFR §

200.319(a), (b).)

2. Responsible Contractors. The school unit must award contracts only to responsible contractors who are able 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, proper classification of employees under the Fair Labor Standards Act, record of past performance, and financial and technical resources. (2 CFR § 200.318(h).)

3. Oversight of Contractors. The school unit must maintain a contract administration and oversight system to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. (2 CFR§ 200.318(b).)

4. Fostering Economy and Efficiency. The school unit must avoid purchasing unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase, and to using federal surplus equipment and property. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. To foster greater economy and efficiency, consideration should also be given to: (i) entering into state and local intergovernmental agreements or inter- entity agreements where appropriate for procurement or use of common or shared goods and services, (ii) using federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs, and (iii) using value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. (2 CFR § 200.318(d)-(g).)

5. ~~Geographic Preferences Prohibited;~~ Domestic Preferences and Other Lawful Procurement Preferences. As appropriate, to the greatest extent practicable, and consistent with law, the school unit should provide a preference for ~~U.S.~~the ~~Goods,~~purchase, ~~Products,~~acquisition, or ~~Materials~~use ~~Encouraged.~~of goods, products, or materials produced in the United States. The requirements of 2 CFR § 200.322 must be included in all subawards, contracts, and purchase orders under federal awards. For infrastructure projects, the school unit must ~~conduct~~also ~~procurements~~comply ~~so~~with ~~as~~any ~~to~~applicable ~~prohibit~~Buy America preferences under 2 CFR Part 184 and the ~~use~~terms and conditions of ~~statutorily~~the federal award. Any geographic or ~~administratively~~workforce-related ~~imposed~~preference or scoring mechanism may be used only when consistent with the United States Constitution, applicable federal statutes and regulations, state ~~or~~and local ~~geographic~~law, ~~preferences~~established ~~in~~school unit procedures, and the terms and conditions of the federal award. (2 CFR §§ 200.318(l), 200.319(f), 200.322; 2 CFR Part 184.)

~~the evaluation of bids or proposals, except (i) where applicable federal statutes expressly mandate or encourage geographic preference or (ii) when contracting for architectural and engineering (A/E) services, so long as its application leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project. As appropriate and to the extent consistent with law, the school unit 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 a Federal award. For purposes of this section, "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. For purposes of this section, "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. (2 CFR §§ 200.319(c), 200.322.)~~

6. Clear and Accurate Technical Requirements. The school unit must have written procedures for procurement transactions that incorporate a clear and accurate description of the technical requirements for the goods or services to be procured, identify all requirements which offerors must fulfill, and identify all other factors to be used in evaluating solicitations. Technical descriptions (i) must not, in competitive procurements, contain features which unduly restrict competition; (ii) may include a statement of the qualitative nature of the goods or services to be procured; (iii) when necessary, must set forth those minimum essential characteristics and standards to which goods or services must conform if they are to satisfy their intended use; (iv) should avoid detailed product specifications if possible; and (v) may use a brand name or equivalent description as a means to define performance or other salient requirements of procurement when it is impractical or uneconomical to make a clear and accurate description of the technical requirements (the specific features of the named brand which must be met by offerors must be clearly stated). (2 CFR § 200.319(d).)

7. Prequalified Contractor Lists. The school unit 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 competition. When establishing or amending a prequalified list, the school unit must consider objective factors that evaluate price and ~~free~~cost to maximize competition. The school unit must not preclude potential bidders from qualifying during the solicitation period. (2 CFR § 200.319(e).)

8. Procurement of Items Made with Recovered Materials. The school unit 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 certain items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, Subpart B that contain the highest percentage of recovered materials, as long as the item is available at a reasonable price and within a reasonable time, and a satisfactory level of competition is maintained. This applies when the school unit

purchases $10,000 or more worth of a designated item during a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more. Section 6002 also requires 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. (2 CFR § 200.323; 40 CFR § 247.2(a)(1).)

C. PROCUREMENT METHODS AND THRESHOLDS

1. Methods of Procurement. The school unit must use ~~one~~an ~~of~~informal procurement method (micro-purchase or simplified acquisition), a formal procurement method (sealed bid or proposal), or a noncompetitive procurement method, as appropriate. The school unit shall apply the ~~following~~most ~~five~~restrictive ~~methods~~applicable ~~of~~federal, ~~procuring~~state, ~~goods~~local, Board, program, or ~~services:~~award-specific ~~micro-purchases, small purchases, sealed bids, competitive proposals (a.k.a. requests for proposals), and non-competitive proposals (a.k.a. sole source procurement).~~requirement. (2 CFR § 200.320.)

~~a.~~Federal ~~Micro-purchases~~acquisition ~~(less~~thresholds ~~than~~are ~~$10,000~~adjusted ~~as~~periodically. ~~of~~Before ~~November~~beginning ~~12,~~a ~~2020). Micro-purchases up to the federal micro-purchase threshold ($10,000 as of November 12, 2020)2 may be made without soliciting competitive quotations if~~procurement, the Purchasing Agent ~~considers~~shall confirm the ~~price~~current ~~to~~federal ~~be~~thresholds ~~reasonable~~and ~~based~~determine ~~on~~whether ~~research,~~a ~~experience,~~lower ~~purchase~~threshold ~~history,~~is required by Maine law, Board policy, the applicable federal program, or ~~other~~the ~~information~~award terms and ~~documents. To the maximum extent practicable, the Purchasing Agent must distribute micro-purchases equitably among qualified suppliers, vendors, or firms. (2 CFR §§ 200.67, 200.320(a)(1).) On an annual basis, a school unit may establish a micro-purchase threshold higher than the federal micro-purchase threshold, up to $50,000. The school unit must maintain documentation, which must be made available to the federal awarding agency and auditors in accordance with 2 CFR § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following: (i) a qualification as a low-risk auditee, in accordance with the criteria in 2 CFR § 200.520 for the most recent audit; (ii) an annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or (iii) for public institutions, a higher threshold consistent with state law. (2 CFR § 320(a)(1)(iv).~~conditions.

~~b.~~a. ~~Small~~Micro-purchases ~~Purchases~~(not ~~($250,000~~exceeding ~~or less~~$15,000 as of ~~November~~October ~~12,~~1, ~~2020).~~2025). ~~Small~~Micro-purchases ~~purchases~~not exceeding the federal micro-purchase threshold ($15,000 as of October 1, 2025)2 may be made without soliciting competitive quotations if the Purchasing Agent considers the price to be reasonable based on research, experience, purchase history, or other information and documents. To the maximum extent practicable, the Purchasing Agent must distribute micro-purchases equitably among qualified suppliers, vendors, or firms. (2 CFR §§ 200.1, 200.320(a)(1).) On an annual basis, a school unit may establish a micro-purchase threshold higher than the federal micro-purchase threshold, up to $50,000. The school unit must maintain documentation, which must be made available to the federal ~~simplified~~awarding ~~acquisition~~agency and auditors in accordance with 2 CFR § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following: (i) a qualification as a low-risk auditee, in accordance with the criteria in 2 CFR § 200.520 for the most recent audit; (ii) an annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or (iii) for public institutions, a higher threshold ~~($250,000~~consistent ~~as~~with ~~of~~state ~~November~~law. ~~12,~~(2 ~~2020)3~~CFR § 200.320(a)(1)(iv).

~~2~~b. ~~For~~Simplified ~~procurements~~Acquisitions ~~utilizing~~(more ~~federal~~than ~~funds~~$15,000 ~~obtained~~but ~~prior~~not ~~to~~exceeding ~~November~~$350,000 ~~12,~~as ~~2020,~~of October 1, 2025). Simplified acquisitions not exceeding the ~~micro-~~

~~purchase threshold is $3,500. The threshold is subject to adjustment every five years in the Federal Acquisition Regulations. 3 For procurements utilizing~~ federal ~~funds obtained prior to November 12, 2020, the~~ simplified acquisition threshold ~~is~~($350,000 ~~$150,000. The threshold is subject to adjustment every five years in the Federal Acquisition Regulations ("FAR"). The school unit is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation~~as of ~~risk,~~October ~~and~~1, ~~its documented procurement procedures; however, in no circumstances can this threshold exceed the dollar value established in the FAR (48 CFR part 2, subpart 2.1) for the simplified acquisition threshold. The school unit should determine if local government laws on purchasing apply. (2 CFR § 200.1 — see definition of "simplified acquisition threshold.")~~2025)3

Federal acquisition thresholds are subject to periodic adjustment in the Federal Acquisition Regulation. The school unit may ~~be~~adopt ~~made~~lower ~~using simple, informal procurement methods~~thresholds and ~~without~~must ~~requiring~~comply ~~sealed bids. For~~with any ~~such~~lower ~~purchases,~~applicable ~~the~~state, ~~Purchasing~~local, ~~Agent~~Board, ~~must obtain price~~program, or ~~rate~~award-specific ~~quotes from an adequate number of qualified vendors or firms (preferably, from at least three q ualified vendors or firms). The Purchasing Agent shall document any price or rate quotes received, whether written or oral. (2 CFR §§ 200.88, 200.320 (a (2).)~~threshold.

~~e. Sealed Bids (over $250,000 as of November 12, 2020). For purchases in excess of the federal simplified acquisition threshold ($250,000 as of November 12, 2020) sealed bidding is used if (i) a complete, adequate, and realistic specification or purchase description is available; (ii) two or more responsible bidders are willing and able to compete effectively for the business; and (iii) the procurement lends itself to a firm fixed price contract and the selection of the successful bidder can~~may be made ~~principally~~using ~~on~~simple, informal procurement methods and without requiring sealed bids. For any such purchases, the ~~basis~~Purchasing Agent must obtain price or rate quotes from an adequate number of ~~price.~~qualified ~~This~~vendors ~~is~~or ~~the~~firms ~~preferred~~(preferably, ~~method~~from ~~for~~at ~~procuring~~least ~~construction.~~three ~~If~~qualified ~~sealed~~vendors ~~bids~~or ~~are~~firms). ~~used,~~The ~~the~~Purchasing ~~following~~Agent ~~requirements~~shall ~~apply:~~document any price or rate quotes received, whether written or oral. (2 CFR §§ 200.1, 200.320(a)(2).)

c. Sealed Bids (over $350,000 as of October 1, 2025). For purchases in excess of the school unit's simplified acquisition threshold, which may not exceed the federal simplified acquisition threshold ($350,000 as of October 1, 2025), sealed bidding is used if (i) a complete, adequate, and realistic specification or purchase description is available; (ii) two or more responsible bidders are willing and able to compete effectively for the business; and (iii) 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. This is the preferred method for procuring construction. If sealed bids are used, the following requirements apply:

• 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;

• The invitation for bids must be publicly advertised;

• 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;

• All bids will be opened at the time and place prescribed in the invitation for bids;

• The bids must be opened publicly;

• A firm fixed price (lump sum or unit price) contract award will be made in writing to the lowest responsive and responsible bidder whose bid conforms to all material terms and conditions of the invitation to bid. Where specified in bidding documents, ~~facto rs~~factors such as discounts, transportation costs, 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 advan tage of; and

• Any or all bids may be rejected if there is a sound documented reason. (2 CFR §§ ~~200.88,~~200.1, 200.320(b)(1).)

d. Requests for Proposals (over ~~$250,000~~$350,000 as of ~~November~~October ~~12,~~1, ~~2020).~~2025). For purchases in excess of the school unit's simplified acquisition ~~threshold~~threshold, ~~($250,000~~which may not exceed $350,000 as of ~~November~~October ~~12,~~1, ~~2020),~~2025, this procurement method is used when conditions are not appropriate for the use of sealed bids. Typically, a request for proposals ("RFP") seeks proposals ~~t hat~~that are evaluated qualitatively such that price is not the primary evaluation criterion.

Contracts may be awarded on either a fixed price or cost-reimbursement basis. If this procurement method is used, the following requirements apply:

• RFPs must be publicized and identify all evaluation factors and their relative importance. Any response to an RFP must be considered to the maximum extent practical;

• The RFP must identify the method to be used by the school unit for conducting technical evaluations of the proposals received and making selections;

• Proposals must be solicited from an adequate number of qualified offerors; and

• The Purchasing Agent must award a contract to the responsible offeror whose proposal is most advantageous to the school unit, with price and other factors considered; however, any and all proposals may be rejected if there is a sound documented reason. The Purchasing Agent 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, subj ect to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, may only be used in procurement of A/E professional services. It cannot be used to purchase other types of services even if A/E firms are a p otential source to perform the proposed effort. (2 CFR §

200.320(b)(2).)

e. Non-Competitive Proposals (Sole Source); Emergencies. Procurements may be made through a non-competitive process (i.e., through the solicitation of a proposal from only one source) only when one or more of the following circumstances apply:

• The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see Section C.I.a, above);

• The item is available only from a single source;

• A 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 non -competitive proposals in response to a written request from the school unit; or

• After solicitation of a number of sources, competition is determined inadequate. The Purchasing Agent must document the basis for the sole source procurement by documenting the basis for any exigency or emergency, obtaining express

authorization from the federal awarding agency or pass-through entity, or demonstrating a good faith effort on the part of the school unit to solicit proposals from a number of sources. (2 CFR ~~§§~~§ ~~200.320(c), 200.324(b)(2).)~~200.320(c).)

2. Purchases Over $25,000. For purchases exceeding $25,000, prior to contracting with a vendor, the Purchasing Agent shall use the System for Award Management (SAM) to search for the vendor by name, tax identification number, or another characteristic to make sure that the vendor has not been suspended or debarred from performing federally funded work. (2 CFR §§ 200.206(d), 180.220.)

3. Purchases Over the Simplified Acquisition Threshold ~~($250,000~~($350,000 as of ~~November~~October ~~12,~~1, ~~2020).~~2025). The following additional procedures apply to purchases exceeding the simplified acquisition threshold:

a. Cost/Price Analysis.

(i) The Purchasing Agent must perform a cost or price analysis in connection with every procurement in excess of the simplified acquisition threshold, including contract modifications. The method and degree of analysis depends on the facts surrounding the particular situation, but as a starting point, the Purchasing Agent must make independent estimates before receiving bids or proposals.

(ii) The Purchasing Agent 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.

(iii) Costs or prices based on estimated costs for contracts under a federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable under Subpart E (Cost Principles) of 2 CFR Part 200. The school unit may reference its own cost principles that comply with the federal cost principles.

(iv) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used. (2 CFR § 200.324.)

b. Bonding Requirements. For construction or facility improvement contracts or subcontracts in excess of the simplified acquisition threshold, the following bonds, or equivalent, are required:

(i) A bid guarantee from each bidder equivalent to 5% 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;

(ii) A performance bond on the part of the contractor for 100% of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and

(iii) A payment bond on the part of the contractor for 100% 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. (2 CFR § 200.326.)

D. CONTRACTING WITH SMALL ~~&~~BUSINESSES, MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, VETERAN-OWNED BUSINESSES, AND LABOR SURPLUS AREA FIRMS The Purchasing Agent must take all necessary affirmative steps to assure that small & minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms are considered and used when possible when possible. Affirmative steps must include:

1. Placing qualified small ~~&~~businesses, minority ~~businesses and~~businesses, women's business ~~enterprises~~enterprises, veteran-owned businesses, and labor surplus area firms on solicitation lists;

2. Assuring that small ~~&~~businesses, minority ~~businesses and~~businesses, women's business ~~enterprises~~enterprises, veteran-owned businesses, and labor surplus area firms 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 ~~&~~businesses, minority ~~businesses and~~businesses, women's business ~~enterprises;~~enterprises, veteran-owned businesses, and labor surplus area firms;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small ~~&~~businesses, minority ~~businesses and~~businesses, women's business ~~enterprises;~~enterprises, veteran-owned businesses, and labor surplus area firms;

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 allowed, to take the affirmative steps listed in paragraphs (1) through (5) of this section. (2 CFR § 200.321.)

E. CONTRACTS ARISING FROM PROCUREMENTS

1. Contract Administrator. Prior to the execution of a contract funded by a federal award, the school unit should name a Contract Administrator. The Contract Administrator is responsible for the tasks, technical requirements, service performance, and verification that payments are in compliance with the contract.

2. Contract Type. The school unit may use a time-and-materials type contract (i.e., a contract whose cost to the school unit 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) only if the school unit determines that no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk. The school unit must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. (2 CFR § 200.318(j).)

3. Contract Provisions. Any contract entered into between the school unit and a firm or vendor who is to be compensated using a federal award or a portion thereof must contain the applicable contract provisions described in Appendix 1. (2 CFR § 200.327.)

4. Subrecipient and Contractor Determinations. The school unit must make case-by-case determinations whether each agreement it makes for the disbursement of federal funds casts the party receiving the funds in the role of a subrecipient or a contractor. The school unit must make this classification using its judgment based on the following factors, as well as any additional guidance supplied by the federal awarding agency:

a. Contractors. A contract is for the purpose of obtaining goods and services for the party's own use and creates a procurement relationship with the contractor. (See 2 CFR § 200.1.) Characteristics indicative of a procurement relationship between the school unit and a contractor are when the contractor (i) provides the goods and services within normal business operations; (ii) provides similar goods or services to many different purchasers; (iii) normally operates in a competitive environment;

(iv) provides g oods or services that are ancillary to the operation of the federal program; and (v) is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.

b. Subrecipients. A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. (See 2 CFR §

200.1.) Characteristics which support the classification of a party receiving federal funds as a subrecipient include when the party (i) determines who is eligible to receive what federal assistance; (ii) has its performance measured in relation to whether objectives of a federal program were met; (iii) has responsibility for programmatic decision making; (iv) is responsible for adherence to applicable federal program requirements specified in the federal award; and (v) in accordance with its agreement, uses the federal funds to carry out a program for a public purpose

specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity. If the party receiving the funds is classified by the school unit as a subrecipient, the school unit must:

(i) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the information required by 2 CFR § 200.331.

(ii) Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described below, which may include consideration of such factors as: (a) the subrecipient's prior experience with the same or similar subawards; (b) the result of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F —Audit Requirements —of 2 CFR Part 200, and the extent to which the same or similar subaward has been audited as a major program; (c) whether the subrecipient has new personnel or new or substantially changed systems; and (d) the extent and results of federal awarding agency monitoring.

(iii) Consider imposing specific subaward conditions upon a subrecipient as described in 2 CFR § 200.208.

(iv) Monitor the activities of the subrecipient as necessary, and as further provided in 2 CFR § ~~331,~~200.332, to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

(v) Verify that each subrecipient is audited as required by Subpart F (Audit Requirements) of 2 CFR Part 200 when it is expected that the subrecipient's federal awards ~~expended~~expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR § 200.501.

(vi) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the school unit's own records.

(vii) Consider taking enforcement action against noncompliant subrecipients as described in 2 CFR § ~~200.338.~~200.339. (2 CFR §§ ~~200.330,~~200.331, ~~200.331.)~~200.332.)

F. RECORDS

1. Recordkeeping. The school unit must maintain records sufficient to detail the history of procurement. Records must include the following: (i) rationale for the method of procurement, (ii) selection of contract type, (iii) contract selection or rejection, and (iv) the basis for the contract price.

2. Record Retention Requirements. The school unit must maintain records related to each federal procurement for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report,

respectively, as reported to the federal awarding agency or school unit in the case of a subrecipient. The following exceptions apply:

a. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

b. When the school unit is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass -through entity to extend the retention period.

c. Records for real property and equipment acquired with federal funds must be retained for 3 years after final disposition.

d. When records are transferred to or maintained by the federal awarding agency or pass - through entity, the 3-year retention requirement is not applicable to the school unit.

e. Records for program income transactions after the period of performance. In some cases, federal fund recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the school unit's fiscal year in which the program income is earned.

f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates). If the proposal, plan, or other computation is required to be submitted to the federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

If the proposal, plan, or other computation is not required to be submitted to the federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation. (2 CFR §§ 200.318(i), ~~200.333.)~~200.334.)

G. PROTESTS AND CLAIMS The school unit is solely responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements of goods or services under federal awards. Except as may be otherwise provided in a written request for proposals or other solicitation of the school unit, these procedures are available to proposers for the purpose of handling and resolving d isputes relating to such procurements, including evaluation and selection, protests of awards, disputes, and claims relating to the selection process and contract award. 4 A protestor must exhaust all of these administrative remedies before pursuing a protest with the federal grant agency or in any court of law. For purposes of this section, the term "proposer" means any person or entity that has submitted a bid or a ~~propos al~~proposal in response to an RFP or other solicitation to the school unit, or a person or entity that is a prospective bidder or offeror and who has a demonstrated direct economic interest in the results of the procurement.

1. Protest Submission Requirements. To be considered by the school unit, a protest must be made in writing, supported by sufficient information to enable the protest to be fairly evaluated, and submitted within the time periods set forth herein. At minimum, protests must include (i) the name, phone number, and address of the protester; (ii) identification of the detailed and specific provision(s) of applicable federal or state law which would be allegedly violated by the procurement; (iii) copies of all exhibits, evidence, or documents supporting the protest; and (iv) a concise description of all remedies or relief requested.

2. Pre-Award Protests. Pre-award protests are protests based upon the content of the solicitation documents. Any protest to the terms, conditions, or specifications set forth in a solicitation must be submitted to the Purchasing Agent or the contract administrator, if a contract administrator is identified in the solicitation, within 5 calendar days after the issuance of the solicitation. All such protests will be considered by the Purchasing Agent, or the contract administrator as appropriate, prior to the solicitation due date, and a written decision will be provided to the protestor. A decision of the Purchasing Agent or contract administrator is final, and no further protest or appeal of the terms, conditions, or specifications of any solicitation will be considered by the School Board. 4

These protest procedures are not available to contractors or third parties for the purpose of handling and resolving disputes, claims or litigation arising in the course of contract formation or contract administration. Any such disputes, claims or litigation will be handled and resolved in accordance with applicable contract terms, if any, and applicable law.

3. Protests of Proposal Evaluations and Award Decision. Proposers shall be notified of any award decision by a written or oral notice of the award. This notice shall be transmitted to each proposer at the address, email address, or telephone number contained in its proposal. Any proposer whose proposal has not lapsed may protest an award decision on any ground arising from the evaluation of proposals or the award decision, but not on any ground specified in the "Pre-Award Protests" category, above. Any such protest must be submitted to the Purchasing Agent or the contract administrator, if a contract administrator is identified in the solicitation, within 3 calendar days after notice of the award. All such protests will be considered by a Protest Review Subcommittee, composed of members selected by the School Board in its sole discretion. A written decision from the Protest Review Subcommittee stating the grounds for allowing or denying the protest shall be transmitted to the protestor before a final contract award is made. A decision of the Protest Review Subcommittee is final, and no further protest or appeal will be considered by the School Board. (2 CFR § 200.318(k).)

H. FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY REVIEW

1. The school unit 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 school unit 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.

2. The school unit 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:

a. The school unit's procurement procedures or operation fails to comply with the procurement standards in 2 CFR Part 200;

b. 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;

c. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product;

d. 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

e. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold. The school unit is exempt from the pre-procurement review in this paragraph if the federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of 2 CFR Part 200.

3. The school unit 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.

4. The school unit 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 school unit that it is complying with these standards. The school unit must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review. (2 CFR § 200.325.)

I. EXCEPTIONS TO THESE ADMINISTRATIVE PROCEDURES The requirements set forth in these administrative procedures do not apply to:

1. Block grant awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services);

2. Federal awards to local education agencies under 20 U.S.C. 7702 -7703b (portions of the Impact Aid program, including federal payments relating to federal acquisition of school property and federal payments for students residing on military installations or Indian lands);

3. Federal awards authorized under the Child Care and Development Block Grant Act of 1990, as amended;

4. Classes of federal awards or non-federal entities identified as exceptions by the Office of Management and Budget; or

5. Any circumstance where the provisions of federal statutes or regulations differ from the provisions of Part 200 of Title 2 of the Code of Federal ~~Register.~~Regulations. (2 C.F.R. §§ 200.101, 200.102.)

Legal Reference: 34 CFR Parts 74 and 80 (Education Department General Administrative Regulations ("EDGAR")) (for federal awards made prior to 12/26/2014) 2 CFR Part 200 (Uniform Administrative Requirements) (for federal awards made on or after 12/26/2014)

Cross Reference: DJ — Bidding/Purchasing DJH — Purchasing and Contracting: Procurement Staff Code of Conduct

Adopted: August 3, 2017

Amended: March 5, 2020, November 7, 2024

APPENDIX I. REQUIRED CONTRACT PROVISIONS All contracts made by the school unit for the procurement of property, goods, or services using a federal award must contain provisions covering the following, as applicable:

A. Remedies (over ~~$250,000).~~the simplified acquisition threshold). Contracts for more than the applicable simplified acquisition threshold ~~(currently~~(not ~~$250,000)~~more than $350,000 as of October 1, 2025) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and must provide for such sanctions and penalties as appropriate.

B. Termination for Cause and Convenience (over $10,000). All contracts in excess of $10,000 must address termination for cause and for convenience by the school unit, including the manner by which it will be effected and the basis for settlement.

C. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.360-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

D. Davis-Bacon Act, Copeland "Anti-Kickback" Act (construction contracts over $2,000). When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by the school unit must include a provision for compliance with the Davis- Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The school unit must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The school unit must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The school unit must report all suspected or reported violations to the Federal awarding agency.

E. Contract Work Hours and Safety Standards Act (over $100,000). Where applicable, all contracts awarded by the school unit in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

F. Rights to Inventions Made Under a Contract or Agreement. If the federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignmen t, or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

G. Clean Air Act; Federal Water Pollution Control Act (over $150,000). Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires compliance with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H. Debarment and Suspension. A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

I. Byrd Anti-Lobbying Amendment (over $100,000). Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

J. Domestic Preference. As appropriate and to the extent consistent with law, the school unit 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 a Federal award. For purposes of this section, "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. For purposes of this section, "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. See 2 CFR § 200.322.

K. Procurement of Items Made with Recovered Materials. The contractor 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, Subpart B that contain the highest percentage of recovered materials, as long as the item is

available at a reasonable price and within a reasonable time, and a satisfactory level of competition is maintained. This applies when the school unit purchases $10,000 or more worth of a designated item during a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was $10,000 or more. Section 6002 also requires 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. See 2 CFR § 200.323; 40 CFR § 247.2(a)(1).

L. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. Contractors are prohibited from obligating or expending loan or grant funds to

(i) procure or obtain; (ii) extend or renew a contract to procure or obtain; or (iii) enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). See 2 CFR § 200.216.

PURCHASING AND CONTRACTING: PROCUREMENT STAFF CODE OF CONDUCT

Conflict of Interest

All employees of MSAD #11 shall perform their duties in a manner free from conflict of interest to ensure that the school district's business transactions are made in compliance with applicable laws and regulations and in a manner that maintain public confidence in the schools. No employee, officer, or agent of the school district shall participate in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent conflict of interest.

A conflict of interest would arise when the employee, officer, or agent – or any member of their immediate family, their 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. For the purpose of this policy, "immediate family" is defined as spouse, brother, sister, parent, son, or daughter.

Conflict of Interest Disclosure

All employees, officers, or agents with real or apparent conflicts of interest as defined above must disclose the conflict of interest to the Superintendent who will investigate the circumstances of the transaction. The Superintendent will exercise due diligence in investigating the circumstances of the transaction and, if necessary, will make reasonable efforts to find alternatives to the proposed transaction or arrangement that would not give rise to a conflict of interest. If the Superintendent determines that the proposed transaction is in the best interest of MSAD #11 and is fair and reasonable, they may proceed with the transaction. In the event the Superintendent may have a conflict of interest, an ad hoc subcommittee of the School Board will investigate and make a determination regarding the transaction.

Staff Gifts and Solicitations

The employees, officers, and agents of MSAD 11 may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontractors. Employees, officers, and agents of the school district may accept unsolicited items of nominal value such as those that are generally distributed by a company or organization through its public relations program.

Violations

Employees of MSAD #11 who violate this code of conduct may be subject to discipline, up to and including termination of employment and, if appropriate, referral to law enforcement.

Legal Reference: 34CFR 74 and 80 (Education Department General Administrative Regulations (EDGAR) (for federal awards made prior to 12/26/2014)

2 CFR §200.318 (Uniform Administrative Requirements – General Procurement Standards) (for federal awards made on or after 12/26/2014)

Cross Reference: BCB - Board Member Conflict of Interest
DJ - Bidding/Purchasing Requirements
DJ-R – Bidding/Purchasing Requirements – Administrative Procedure
GBI - Staff Gifts and Solicitations
KCD - Public Gifts/Donations to the Schools

Adopted: May 6, 2010

Revised: March 3, 2011; August 3, 2017; December 2. 2021

EVALUATION OF THE SUPERINTENDENT

The MSAD #11 School Board will evaluate the performance of the Superintendent no less than once every three years. The primary purposes of the evaluation will be to continually improve administrative leadership, to strengthen the working relationship of the Board and Superintendent governance team, and to assist the Board in reviewing issues associated with the Superintendent's employment.

Guidelines

A. The Superintendent should be involved in developing the evaluation form and standards or reviewing the existing evaluation form and standards.

B. The evaluation(s) should be at a regularly scheduled time and place, in an executive session in which all Board members are present.

C. The Superintendent should prepare for the evaluation by conducting a self-evaluation.

D. The MSAD #11 School Board should prepare for the evaluation as follows:

1. Board members will submit individual written assessments to the Chair, using the evaluation form and standards, with supporting comments giving specific examples related to conduct and/or performance.

2. The Chair will develop a composite evaluation from members' written opinions.

3. The Board will meet in executive session to review the composite evaluation and materials related to the Superintendent's performance. The Superintendent may be invited to, or excluded from, this session at the Board's discretion. [Note: The Superintendent must be present for any discussion that may lead to or result in allegations, charges, or investigation of misconduct.]

E. The MSAD #11 School Board will meet with the Superintendent in executive session to review the evaluation:

1. The Board as a whole will meet with the Superintendent to discuss the evaluation, which should include the composite of individual MSAD #11 School Board members' written assessments as agreed upon by the MSAD #11 School Board.

2. The evaluation should include a discussion of strengths as well as areas identified for improvement.

3. As no form or set of guidelines can encompass the totality of the Superintendent's responsibilities, the evaluation discussion may include items not described in the evaluation form.

4. The Board's evaluation should be supported by specific examples of the Superintendent's conduct/performance and should represent the perspective of the majority of the Board.

5. The Superintendent shall be given the opportunity to provide feedback to the Board regarding his/her perceptions of the working relationship between the Superintendent and the Board and other issues the Superintendent identifies as relevant to his/her job responsibilities and performance.

F. The Board will meet in executive session to discuss issues such as compensation, benefits, and extension of contract which are directly related to the Superintendent's evaluation and employment. The Superintendent may be invited to, or excluded from, this session at the Board's discretion.

G. The Board will meet with the Superintendent in executive session to discuss compensation, benefits, extension of contract and other matters relevant to the Superintendent's employment.

H. Following the completed evaluation process, the Board Chair shall provide the Superintendent with a written summary of the key elements of the evaluation review.

Performance Objectives

Using the Superintendent's evaluation(s) for the year and the priorities established by the Board, the Board and the Superintendent will establish mutually agreed upon and clearly understood performance goals for the ensuing year. Progress toward these goals will be included as part of the next Board evaluation of the Superintendent.

Cross Reference: BDD - Board-Superintendent Relationship
CB - School Superintendent
CB-R - Superintendent Job Description

Adopted: August 6, 1992

Revised: November 6, 2008; April 1, 2010; August 3, 2017; December 2, 2021

File: ECAD

SECURITY CAMERA SYSTEM

The MSAD 11 School Board authorizes the use of security cameras for the purpose of enhancing school safety and security. The Board's goals are to promote and foster a safe, secure teaching and learning environment for students and employees; to promote public safety for community members who visit or use school property; and to safeguard facilities and property.

Security cameras may be placed in parking lots, school entryways, and other areas on school grounds. Security cameras may also be placed in areas of common use within buildings, including but not limited to, school foyers, the school office, hallway, cafeterias, libraries, and gymnasiums.

Security cameras may be used for the following purposes:

1. To investigate suspected violations of Board policies or school, or other inappropriate conduct.

2. To monitor activities on school property to protect safety and to enforce school rule, policies and the law.

3. By law enforcement to address school safety issues or to investigate possible criminal behavior.

Notices will be posted in public entryways to the building and other conspicuous locations informing persons that the buildings and ground are monitored by security cameras.

The Superintendent may develop and implement any necessary administrative procedures regarding the use of security cameras.

Cross Reference:	EBCA	Comprehensive Emergency Management
	ECAD-R	Security Camera System – Administrative Procedure
	JRA	Student Records and Information

Adopted: September 7, 2019; December 2, 2021

STAFF INVOLVEMENT IN DECISION MAKING

The formulation of policy involving the curriculum, instruction and the overall school program is one of the primary responsibilities of the MSAD #11 School Board, and the Board reserves the right to make the final decision regarding such policies. The MSAD #11 Board believes that the best interests of the district's students should be the principle guiding the adoption of all educational policy. The Board further believes that appropriate input from the professional staff is important to the decision-making process.

The Superintendent shall ensure that there is a process in place to encourage meaningful professional staff input prior to making recommendations regarding curriculum, instruction and the school program to the Board. The process should be conducted in a spirit of cooperation, with a clear focus on student learning as the most important function of the schools, and with the understanding that the staff is collectively responsible for student performance.

Participation in the decision-making process is accompanied with an expectation of accountability by the professional staff. All proposals for changes to the curriculum, instruction or the district's educational goals should incorporate evaluation procedures linked to student outcomes. The Board encourages the use of professional development activities specifically directed to improving staff research, analytical and decision-making abilities.

The Superintendent shall ensure that the administrative team has the appropriate support to lead an effective instructional program with a consistent focus on student learning and outcomes.

Legal Reference: 26 MRSA § 965

Cross Reference: BHC - Communications with Staff
GCI - Professional Staff Development Opportunities
GCOA - Supervision and Evaluation of Professional Staff

Adopted: June 5, 1986

Revised: June 25, 1992; August 6, 1992; February 1, 2007; January 7, 2016; June 2, 2022

STAFF ETHICS/CONFLICT OF INTEREST

Relationship to Supervisors

No person shall be employed in a position that is within the jurisdiction of an administrative officer who is a member of the immediate family of such person, nor shall any person be employed in a position where a member of the immediate family is responsible, in whole or in part, for the supervision and/or evaluation of the employee.

Notification

Whenever a member of the immediate family of any employee is hired, the MSAD #11 Board shall be notified of the relationship.

Exceptions

The Board may approve an exception to this policy where the Board determines that granting of such exception is in the best interest of the school system.

Definitions

For the purpose of this section, the following definitions shall apply:

A. "Administrative Officer" shall mean any person who holds any supervisory position of Assistant Principal or similar or higher rank; and

B. "Member of the immediate family" shall mean spouse, brother, sister, parent, son or daughter (including in-laws).

Legal Reference: 17 MRSA § 3104

Cross Reference: DJH – Purchasing and Contracting: Procurement Staff Code of Conduct
GBI - Staff Gifts and Solicitations

Adopted: June 5, 1986

Revised: January 7, 1993; February 1, 2007; January 7, 2016; April 1, 2021

STAFF CONDUCT WITH STUDENTS

The MSAD #11 Board expects all staff members, including teachers, coaches, counselors, administrators, and others to maintain the highest professional, moral, and ethical standards in their conduct with students. For the purposes of this policy, staff members also include school volunteers.

The purpose of this policy is to ensure that interactions and relationships between staff members and students are based upon mutual respect and trust; an understanding of the appropriate boundaries between adults and students in and outside of the educational setting; and consistency with the educational mission of the schools.

The Board understands that staff members may interact with and have friendships with families of students outside of school. This policy is not intended to prohibit such interactions, provided that professional boundaries are maintained at all times.

Staff members are expected to be sensitive to the appearance of impropriety in their conduct with students and are encouraged to discuss issues with the building principal or their supervisor whenever they are unsure whether particular conduct may constitute a violation of this policy.

Unacceptable Conduct

Examples of unacceptable conduct by staff members that are expressly prohibited include but are not limited to the following:

A. Any type of sexual or inappropriate physical contact with students or any other conduct that might be considered harassment under the Board's policy on Harassment and Sexual Harassment of Students;

B. Singling out a particular student or students for personal attention and friendship beyond the normal teacher-student relationship;

C. For non-guidance/counseling staff, encouraging students to confide their personal or family problems and/or relationships. If a student initiates such discussions, staff members are expected to be supportive but to refer the student to appropriate guidance/counseling staff. In either case, staff involvement should be limited to a direct connection to the student's school performance;

D. Engaging in sexual banter, allusions, jokes, or innuendos with students;

E. Asking a student to keep a secret;

F. Disclosing personal, sexual, family, employment concerns, or other private matters to one or more students;

G. Addressing students with terms of endearment, pet names, or otherwise in an overly familiar manner; and

H. Permitting students to address you by your first name, nickname or otherwise in an overly familiar manner.

I. "Friending" students or engaging in any other interactions on social media or through digital applications (outside of any school-approved activity);

J. Communicating with students on non-school matters through phone calls, email, text messages, Messenger or any other digital methods, or by notes, letters or any other means (unless the student's parent approves of the activity, e. g, in the context of employment or participation in community activities);

Before engaging in the following activities, staff members should consult with the building principal or their supervisor, as appropriate:

K. Being alone with individual students out of the view of others;

L. Driving students home;

M. Inviting or allowing students to visit the staff member's home;

N. Visiting a student's home, unless on official school business that is known and agreed to by the parent;

O. Exchanging personal gifts (beyond the customary student-teacher gifts); and/or

P. Socializing or spending time with students (including but not limited to activities such as going out for meals or movies, shopping, traveling, and recreational activities) outside of school-sponsored events except as participants in organized community activities.

Reporting Violations

Students and/or their parents/guardians are strongly encouraged to notify the Superintendent or building principal if they believe a teacher or other staff member may be engaging in conduct that violates this policy.

Staff members must promptly notify the Superintendent or building principal if they become aware of a situation that may constitute a violation of this policy.

Disciplinary Action

Staff violations of this policy may result in disciplinary action up to and including dismissal.

Violations involving sexual or other abuse will also result in referral to the Department of Human Services and/or law enforcement in accordance with the Board's policy on Reporting Child Abuse and Neglect.

School Unit Obligation to Report to Maine Department of Education (MDOE)

Any staff member holding a credential should be aware that violation of this policy may result in revocation or suspension of a certificate if it endangers the health, safety, or welfare of a student.

The Superintendent/designee will notify the MDOE immediately if a credential holder is disciplined, suspended or terminated as a result of a "covered investigation" (as defined in 20-A MRSA § 13025) in which the school unit determined that a student's health, safety or welfare was endangered.

As soon as practicable, the school unit will provide to the MDOE any final report produced in support of the school unit's decision to discipline, suspend or terminate the credential holder. The credential holder may submit a written rebuttal to the report to the MDOE.

The Superintendent/designee will notify the MDOE immediately if a credential holder who is the subject of a covered investigation leaves the school unit's employment for any reason prior to the conclusion of the covered investigation.

[NOTE: As defined in 20-A MRSA § 13025, "covered investigation" means "an investigation by a school entity into the conduct of a holder of a credential that a school entity has a reasonable expectation would affect the credential holder's employment or contracted service because the alleged conduct involves alcohol, illegal drugs, physical abuse, emotional abuse, inappropriate contact between a credential holder and a student, stalking, or similar behavior that endangers the health, safety or welfare of a student."]

Dissemination of Policy

This policy shall be included in all employee, student and volunteer handbooks.

Legal Reference: 20-A MRSA § 13025

Cross Reference: ACAA - Harassment and Sexual Harassment of Students
GCSA - Staff Computer/Internet Use
JLF - Reporting Child Abuse and Neglect

Adopted: December 2, 2021

WORKPLACE BULLYING

The Board is committed to providing a respectful, safe, and inclusive workplace for employees, one that is free from bullying conduct. All employees and students in the school unit, as well as parents, community members, and others involved with the schools are prohibited from engaging in workplace bullying as defined in this policy.

DEFINITION

For the purposes of this policy, "workplace bullying" means intentional behavior that a reasonable person would expect to interfere with an employee's work performance or ability to work. Generally, workplace bullying will involve repeated conduct. However, a single incident of egregious conduct could constitute workplace bullying.

Examples of workplace bullying include, but may not be limited to:

- Humiliating, mocking, name-calling, insulting, maligning, or spreading rumors about an employee;
- Shunning or isolating and employee or encouraging others to do so;
- Screaming or swearing at an employee, slamming doors or tables, aggressively invading an employee's personal space; placing an employee in reasonable fear of physical harm; or other types of aggressive or intimidating behavior;
- Targeted practical jokes;
- Damaging or stealing an employee's property;
- Sabotaging an employee's work or purposely misleading an employee about work duties (e.g., giving incorrect deadlines or intentionally destroying an employee's work;
- Harassing and/or retaliating against an employee for reporting workplace bullying;
- Cyberbullying, which is defined in Maine law as bullying occurring through the use of technology or any electronic communication, including but not limited to, a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted by the use of any electronic device, including, but not limited to, a computer, telephone, cellular telephone, text messaging device, or personal digital assistant.

EXCLUSIONS

Workplace bullying does not include the following:

- When supervisors set reasonable performance goals or provide verbal or written counseling, direction, feedback, or discipline to employees in the workplace when the intent is to address unsatisfactory work performance or violations of law or school policy;

- When supervisors make personnel decisions designed to meet the operational or financial needs of the school unit or the needs of students. Examples include, but are not limited to changing shifts, reassigning work responsibilities, taking steps to reduce overtime costs, transferring or reassigning employees to another building or position.

- Discrimination or harassment based on protected characteristics (race, color, sex, sexual orientation, gender identity, religion, ancestry or national origin, age, familial status, disability, or genetic information). Such conduct is prohibited under separate policies and complaints shall be addressed under ACAB-R – Employee Discrimination/Harassment and Title IX Sexual Harassment Complaint Procedure.

- Disrespectful conduct by students directed at school employees that can be addressed through enforcement of classroom rules, school rules, and applicable Board policies.

REPORTS AND INVESTIGATIONS

Employees who believe they have been bullied in the workplace, and other persons who believe they have witnessed an incident of an employee being bullied in the workplace, are expected to report the issue to the building administrator.

If the report is about the building administrator, the report should be made to the Affirmative Action Officer.

The building administrator or the Affirmative Action Officer shall promptly notify the superintendent of all workplace bullying reports.

Any workplace bullying report about the Superintendent should be made to the Board Chair.

All reports of workplace bullying shall be investigated promptly and documented in writing. The person who was the subject of the alleged workplace bullying and the person alleged to have engaged in workplace bullying will be notified of the outcome of the investigation, consistent with confidentiality and privacy laws.

DISCIPLINARY ACTION

Any employee who is found to have engaged in workplace bullying will be subject to disciplinary action up to and including termination of employment.

Students who are found to have engaged in bullying of an employee will be subject to disciplinary action in accordance with applicable student discipline procedures.

Parents and others who are found to have engaged in bullying of an employee will be dealt with in a manner appropriate to the particular circumstances.

APPEALS

If dissatisfied with the resolution of the matter, the subject of the alleged workplace bullying or the person alleged to have engaged in workplace bullying may file a written appeal within five (5) business days with the superintendent stating the reason for the appeal. The superintendent will review the matter and issue a written decision within ten (10) business days. The Superintendent's decision shall be final.

If the matter involves employees covered by a collective bargaining agreement, any disagreement with the results of the investigation may be resolved through the agreement's dispute resolution process.

RETALIATION PROHIBITED

Retaliation for reporting workplace bullying is prohibited. Employees and students found to have engaged in retaliation shall be subject to disciplinary action.

SUPERINTENDENT'S RESPONSIBILITY

The Superintendent shall be responsible for implementing this policy and for the development of any necessary procedures to enforce it.

Legal References: 20-A MRSA §1001(21); 6544(2)(C)

Cross References:	AC	Nondiscrimination, Equal Opportunity and Affirmative Action
	ACAB	Harassment/Sexual Harassment of School Employees
	ACAB-R	Discrimination/Harassment and title IX /Sexual Harassment of School Employees

Adopted: December 2, 2021

PERSONNEL RECORDS AND FILES

MSAD #11 shall maintain records of current and former employees in the Office of the Superintendent in accordance with state and federal laws and regulations.

Directory Information

As required by law, a record of directory information for each employee shall be open to inspection and copying by any person. Directory information shall contain:

A. Name of employee;

B. Date(s) of employment by the school district;

C. Regular and extra-curricular duties, courses, subjects taught, and any other responsibilities since the start of employment by the school district;

D. Post-secondary education institution(s) attended;

E. Major and minor field(s) of study as recognized by those institutions; and

F. Degrees received and dates degrees were awarded.

Confidential Information

As required by law, all information (except Directory Information) about an employee, applicant for employment, or an employee/applicant's immediate family shall be kept confidential if it relates to the following:

A. All information, working papers, and examinations used in the evaluation or selection of applicants for employment;

B. Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

C. Performance evaluations, personal references and other reports and evaluations reflecting on the quality or adequacy of the employee's work or general character compiled and maintained for employment purposes;

D. Credit information;

E. The personal history, general character or conduct of the employee or any member of the employee's immediate family;

F. Complaints, charges of misconduct, replies thereto and memoranda and other materials pertaining to disciplinary action;

G. Social Security number;

H. Any teacher action plan and support system documents and reports maintained for certification purposes; and

I. Criminal history record information.

Personnel Files

Personnel files will contain a cumulative history of the staff member's employment, including formal or informal employee work evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits.

Other Confidential Personnel Records

The school district must maintain the following confidential employee records separate from the personnel files:

A. Medical information of any kind; and

B. Teacher action plan and support system documents and reports maintained for certification purposes.

Disciplinary Action Information

Any written record of a decision involving an employee disciplinary action by the School Board shall not be included within any category of confidential information.

Procedures for Review of Personnel Files

For the purpose of this section, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits that are maintained by the school district for employment purposes.

A. The Superintendent shall, upon written request and within five (5) business days provide the employee, former employee, or their duly authorized representative(s) with an opportunity to review and copy their personnel file, if the Superintendent has a personnel file for that employee.

B. Reviews of personnel files shall take place at the location where the personnel files are maintained and during normal office hours.

C. The cost of any copying is to be paid by the person requesting the copy.

D. Access to confidential college placement records and letters of reference will be granted only to the Superintendent/designee.

Access to Personnel Files

Access to personnel files may be given to the following persons without the consent of the employee.

A. The Superintendent or their designee, the employee's principal or other supervisor(s). Personnel files are not accessible to individual Board members.

Relevant portions of a personnel file may be summarized and/or shared with the Board by the Superintendent when consideration is being given to performance evaluation, continuation of employment or disciplinary action.

B. The general public shall have access only to the Directory Information as outlined above.

Access to personnel files will not be granted to any other persons except under the following circumstances:

A. When the employee gives written consent for the release of their records. The written consent must specify the record(s) to be released and to whom they are to be released. Each request for consent must be handled separately; blanket permission for release of information will not be accepted; and

B. Upon advice of counsel, when subpoenaed or under court order.

Records Management

The Superintendent has overall responsibility for maintaining and preserving the confidentiality of all employee/applicant records. The Superintendent may designate a staff member who shall be responsible for granting or denying access to records according to the guidelines in this policy.

Written reports shall be maintained in personnel files to document compliance with federal and state laws and regulations and Board policies regarding employee

evaluations. Once a document is properly placed in a personnel file, it shall remain in the file permanently.

Records Retention

The school district will retain all personnel records and files in accordance with applicable laws and regulations.

Legal Reference: 20-A MRSA § 6101
20-A MRSA § 13015
26 MRSA § 631
Chapter 10, Rules for Disposition of Local Government Records (Maine State Archives)
Americans with Disabilities Act of 1990, 42 U.S.C.
Family and Medical Leave Act of 1993, 29 U.S.C. 2611 et seq.

Cross Reference: GBJC - Retention of Application Materials
KDB - Public's Right to Know/Freedom of Information

Adopted: July 8, 1993

Revised: February 1, 2007; January 7, 2016; December 2, 2021

FAMILY AND MEDICAL LEAVE

Employees are entitled to family and medical leave under the federal Family and Medical Leave Act of 1993 ("FMLA") or the Maine Family Medical Leave law when they meet all of the eligibility requirements of these laws. This policy sets forth several rules that must be applied uniformly to all employees who may be eligible for family and medical leave. As used in this policy, "family and medical leave" means leave available under both the federal and state laws.

1. The Federal Employee Eligibility Periods

Employees who have been employed for at least 12 months and have worked at least 1,250 hours in the previous 12 months are eligible for FMLA leave under the federal law.

There are two types of eligibility periods under the federal law as described below.

A. 12-Month Period for Birth, Adoption or Foster Care; Serious Health Condition Purposes; Qualifying Exigency

There is a 12-month eligibility period for 12 weeks of FMLA leave taken for the following qualifying purposes:

1. Birth and care of the newborn child of the employee;
2. Placement with the employee of a son or daughter for adoption or foster care;
3. Care for an immediate family member (spouse, child, or parent) with a serious health condition;
4. Medical leave when the employee is unable to work because of a serious health condition; or
5. Qualifying exigency leave for an employee whose spouse, child or parent is a regular member of the Armed Forces on covered active duty deployed to a foreign country or a reserve member of the Armed Forces (including National Guard) on covered active duty deployed to a foreign country under a call or order to active duty in a contingency operation.

The 12-month period used to determine employee eligibility for FMLA for the purposes described above shall be a rolling 12-month period measured backward from the date an employee uses a FMLA leave.

B. Federal 12-Month Period for Military Caregiver Leave

There is a separate 12-month period for employees eligible for military caregiver leave of up to 26 weeks. Such leave may be taken to care for a spouse, child, parent or next of kin of an eligible service member or veteran with a serious injury or illness. This leave is calculated from the first day that leave is taken for this purpose and does not track the employer's designated 12-month FMLA tracking period as described above. Any military caregiver leave that is not taken within the specific 12-month period is forfeited. This leave period may overlap with the usual 12-month leave period designated by the employer and in certain circumstances, this may impact the employee's eligibility to take other types of FMLA leave.

2. Maine Requirements

A. Employee Eligibility

Employees who have been employed for at least 12 consecutive months are eligible for leave under the Maine Family Medical Leave law.

B. Leave Amount and Eligibility

The amount of family and medical leave available to employees under the Maine law is 10 work weeks in any two-year period.

C. Qualifying Purposes

Leave may be used for the following qualifying purposes:

1. Serious health condition of the employee;
2. Serious health condition of the employee's spouse, domestic partner, child (or child of domestic partner), grandchild (or grandchild of domestic partner), parent or sibling;
3. Birth of the employee's child or child of his/her domestic partner;
4. Placement of a child 16 years of age or younger with the employee or the employee's domestic partner for adoption;
5. Donation of an organ for human transplant by the employee;
6. Death or serious health condition of the employee's spouse, domestic partner, parent, sibling or child as a member of the state military forces or United States Armed Forces (including National Guard and Reserves) while on active duty.

3. Notice by Employee

Employees requesting leave shall provide at least 30 days' notice to the Employer whenever the need for such leave is foreseeable. The employee shall provide appropriate medical certification (or other certification appropriate to the particular request) supporting the leave request.

When the Employer has reason to believe that an employee is or will be absent for an FMLA-qualifying purpose, the Employer should request the appropriate information from the employee to determine the employee's eligibility for family and medical leave.

4. Coordination with Other Leave

When leave is taken that qualifies both as FMLA and as permitted leave under any employment contract, collective bargaining agreement or policy, the employee shall use FMLA and the other type of leave concurrently, provided that the employee meets all of the eligibility requirements for each type of leave. Types of leave that shall run concurrently with FMLA include, but are not necessarily limited to: accrued sick leave, vacation and compensatory time, unpaid leave, disability leave, absence for work-related injuries, and any other applicable types of leave.

5. Interaction with Maine Law

When an employee is eligible for leave under both the federal and Maine statues, the applicable law shall be the one that provides the greater benefit.

An employee who is not eligible for federal FMLA leave may be eligible for leave under the Maine FMLA.

MSAD #11 will analyze each request to determine eligibility for federal and/or Maine FMLA leave.

6. FMLA Leave When Both Parents Are School District Employees

If both parents of a child are employed by the District, they are each entitled to a total of 12 weeks of leave per year. However, leave may be granted to only one parent at a time and only if leave is taken: (1) for the birth of a child or to care for the child after birth; or (2) for placement of a child for adoption or foster care or to care for the child after placement.

If spouses are employed by the District, the aggregated number of weeks of leave that can be taken is 26 weeks in a single 12-month period for serviceperson leave or a combination of exigency and serviceperson leave. The aggregate number of weeks of

leave that can be taken by a husband and wife who work for the same employer is 12 weeks if for exigency leave only.

7. Special Rules for Instructional Employees

Under federal regulations, certain special rules apply to instructional employees. These rules affect the taking of leave near the end of a semester and the taking of intermittent leave or leave on a reduced leave schedule.

8. Fitness for Duty Certificate

Before returning to work, employees taking FMLA for their own serious health condition shall submit a certificate from a health care provider indicating that they are able to return to work and perform the essential functions of the position.

Legal Reference: 26 U.S.C. § 2601 et seq.; 29 CFR Part 825
26 MRSA § 843 et seq.

Adopted: May 5, 2011

Revised: June 2, 2011; February 7, 2019; March 3, 2022

EARNED PAID LEAVE

MSAD 11 will comply with all applicable provisions of Maine's Earned Paid Leave (EPL) law, which takes effect January 1, 2021, and with Maine Department of Labor rules governing EPL.

The Superintendent/designee shall be responsible for developing and implementing administrative procedures to implement use of EPL under this policy.

Notice of the EPL law will be posted in a visible location in each workplace.

Administrative procedures, including employee eligibility, use of leave, and employee notice requirements, will be provided to employees in writing and/or through electronic communications, the school unit's employee handbook, or other suitable means.

Legal Reference: 26 MRSA § 637
Maine Dep't of Labor Bureau of Labor Standards Rule Ch. X

Cross-Reference: GBN Family and Medical Leave
GBO Family Sick Leave

Adopted: August 5, 2021

PLEASE NOTE MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board's policy development on specific topics. Rarely does one board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

MAINE SCHOOL MANAGEMENT ASSOCIATION