

Yancey County School Board Policy

FEDERAL GRANT ADMINISTRATION

Policy Code: 8305

April 11, 2022

The board intends to administer federal grant awards efficiently, effectively, and in compliance with all requirements imposed by law, the awarding agency, and the North Carolina Department of Public Instruction or other applicable pass-through entity.

A. FINANCIAL MANAGEMENT SYSTEMS AND INTERNAL CONTROLS

The finance officer shall be responsible to the superintendent to develop, monitor, and enforce effective financial management systems and other internal controls over federal awards that provide reasonable assurance that the school system is managing the awards in compliance with all requirements for federal grants and awards. Systems and controls must meet all terms and conditions of the awards as well as all requirements of the U.S. Constitution and federal law and regulation, including the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (“Uniform Guidance”) issued by the U.S. Office of Management and Budget (except to the extent that an exception to the Uniform Guidance has been authorized by the relevant federal agency), and any applicable state requirements, and shall be based on best practices.

The financial management and internal controls must provide for (1) identification of all federal funds received and expended and their program source; (2) accurate, current, and complete disclosure of financial data in accordance with federal requirements; (3) records sufficient to track the receipt and use of funds; (4) effective control and accountability over assets to assure they are used only for authorized purposes; and (5) comparison of expenditures against budget. In addition, written procedures must be established for cash management and for determining the allowability of costs, as required by the Uniform Guidance.

At a minimum, the systems and controls shall address the following areas.

1. Allowability

Costs charged by the school system to a federal grant must be allowed under the individual program and be in accordance with the cost principles established in the Uniform Guidance, including how charges made to the grant for personnel are to be determined. Costs will be charged to a federal grant only when the cost is incurred during the approved budget period and is (1) reasonable and necessary for the program; (2) in compliance with applicable laws, regulations, and grant terms; (3) allocable to the grant; (4) adequately documented; and (5) consistent with school system policies and administrative regulations that apply to both federally-funded and non-federally funded activities. Internal controls shall be

sufficient to provide reasonable assurance that charges to federal awards for personnel expenses are accurate, allowable, and properly allocated and documented. Prior written approval for certain cost charges must be obtained as required by the awarding agency in order to avoid subsequent disallowances.

2. Cash Management and Fund Control

Payment methods must be established in writing that minimize the time elapsed between the draw of federal funds and the disbursement of those funds. Standards for funds control and accountability must be met as required by the Uniform Guidance for advance payments.

3. Procurement

All purchases for property and services made using federal funds must be conducted in a manner providing full and open competition and in accordance with the Uniform Guidance, all other applicable federal, state, and local laws and regulations, and the school system's written policies and procedures. The district shall avoid situations that unnecessarily restrict competition, as defined in 2 C.F.R. 200.319, and shall avoid acquisition of unnecessary or duplicative items. Noncompetitive procurement will be used only in the circumstances allowed by 2 C.F.R. 200.320(c). School officials are encouraged to maximize the purchase and use of goods, products, and materials produced in the United States to the extent consistent with law.

Individuals or organizations that develop or draft specifications, requirements, statements of work, and/or invitations for bids, requests for proposals, or invitations to negotiate, must be excluded from competing for such purchases.

Contracts are to be awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. No contract shall be awarded to a contractor who is suspended or debarred from eligibility for participation in federal assistance programs or activities. Contracts shall contain all provisions required by 2 C.F.R. Part 200.

Purchasing records must be sufficiently maintained to detail the history of all procurements and must include at least the rationale for the method of procurement, selection of contract type, and contractor selection or rejection; the basis for the contract price; and when applicable, verification that the contractor is not suspended or debarred.

The requirements for conflicts of interest established below in subsection A.4 are

applicable to all procurements.

4. Conflict of Interest

Each employee, board member, or agent of the school system who is engaged in the selection, award, or administration of a contract supported by a federal grant or award ("covered individual") and who has a potential conflict of interest shall disclose that conflict in writing to the superintendent. The superintendent shall disclose in writing any potential conflict of interest to the federal awarding agency in accordance with 2 C.F.R. 200.112.

For purposes of this paragraph, a conflict of interest would arise when (1) the covered individual, (2) any member of his or her immediate family, (3) his or her partner, or (4) an organization which employs or is about to employ any of those parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for a contract. A covered individual who is required to disclose a conflict in accordance with this paragraph shall not participate in the selection, award, or administration of a contract supported by a federal grant or award.

Covered individuals shall not solicit or accept any gratuities, favors, or items from a contractor or a party to a subcontract for a federal grant or award; however, covered individuals may accept (1) a single unsolicited item with a value of \$50 or less or (2) multiple unsolicited items from a single contractor or subcontractor having an aggregate monetary value of \$100 or less in a 12-month period. Violations of this rule are subject to disciplinary action.

5. Mandatory Disclosures

The superintendent shall disclose in writing to the federal awarding agency in a timely manner all violations of federal criminal law involving fraud, bribery, or gratuities potentially affecting any federal award. The superintendent shall fully address any such violations promptly and shall notify the board accordingly. The board may request the superintendent to develop a plan of correction for board approval in appropriate situations as determined by the board.

6. Equipment and Supplies Purchased with Federal Funds

Equipment and supplies acquired with federal funds will be used, managed, and disposed of in accordance with applicable state and federal requirements. Property records and inventory systems shall be sufficiently maintained to account for and track equipment that has been acquired with federal funds.

7. Accountability and Certifications

All fiscal transactions must be approved by the finance officer and by the program manager or other person who can attest that the expenditure is allowable and approved under the federal program.

The finance officer shall submit all required certifications and is authorized to sign them on behalf of the board.

8. Monitoring and Reporting Performance

The superintendent shall establish sufficient oversight of the operations of federally supported activities to assure compliance with applicable federal requirements and to ensure that program objectives established by the awarding agency are being achieved. Financial and performance reports, including reports of significant developments that arise between scheduled performance reporting dates and final closeout reports, must be submitted as required by federal or state authorities.

B. AUDITS AND CORRECTIVE ACTION

1. An annual independent audit will be conducted as provided in policy 8310, Annual Independent Audit. The finance officer will prepare all financial statements, schedules of expenditures, and other documents required for the audit.
2. At the completion of the audit, the superintendent or designee shall prepare a summary schedule of prior audit findings and a corrective action plan to address any prior audit findings. The corrective action plan must identify the responsible party and the anticipated completion date for each corrective action to be taken. The superintendent shall present the plan to the board for approval.
3. Compliance deficiencies discovered internally through administrative supervision must be addressed promptly with the goal of improving processes to encourage future compliance and reduce audit findings.

C. TRAINING

All individuals responsible for the administration of a federal grant or award shall be provided sufficient training to carry out their duties in accordance with all applicable requirements for the federal grant or award.

D. OTHER APPLICABLE BOARD POLICIES

Other board policies provide additional controls over the administration of federal grants. These include, but are not necessarily limited to:

1. Educational programs policies (policies in the 3000 series)

2. School nutrition services policies (policies in the 6200 series)
3. Purchasing policies (policies in the 6400 series)
4. Equipment, materials, and supplies policies (policies in the 6500 series)
5. Personnel policies (policies in the 7000 series)
6. Fiscal management policies (policies in the 8000 series)
7. Policies protecting the confidentiality of personally identifiable information and other sensitive information (policies in the 4000, 6000, and 7000 series)

The board intends to comply with all requirements applicable to the use of federal funds. To the extent that any provision of a board policy is contrary to a federal law, regulation, term, or condition applicable to a federal award, employees must follow the applicable federal requirement.

E. REPORTING MISMANAGEMENT OF FEDERAL FUNDS

Any employee who reasonably believes that federal funds have been misused or that the school system is otherwise in violation of any requirement applicable to the receipt and use of federal funds should report the matter as provided in policy 1760/7280, Prohibition Against Retaliation.

federal requirement.

F. UNIFORM GUIDANCE PROCUREMENT

1. Purpose

The purpose of this Policy is to establish guidelines that meet or exceed the procurement requirements for purchases of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

2. Policy

- a. **Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed). The requirements of this Policy also apply to any sub recipient of the funds.
All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise

directed in writing by the federal agency or state pass-through agency that awarded the funds.

- b. **Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. § 200.317 through § 200-326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. Yancey County Board of Education will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the Yancey County Board of Education have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law.
- c. **Contract Award.** All contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract.
- d. **No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this Policy or state and federal law.
- e. **Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.
- f. **Contractors' Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.
- g. **Approval and Modification.** The administrative procedures contained in this Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

3. **General Procurement Standards and Procedures**

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

- a. **Necessity.** Purchases must be necessary to perform the scope of work and must avoid acquisition of unnecessary or duplicative items. The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying new items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate

procurements and services to obtain better pricing.

- b. **Clear Specifications.** All solicitations must incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- c. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- d. **Compliance by Contractors.** All solicitations shall inform prospective contractors that they must comply with all applicable federal laws, regulations, executive orders, and terms and conditions of the funding award.
- e. **Fixed Price.** Solicitations must state that bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are prohibited. Time and materials contracts are prohibited in most circumstances. Time and materials contracts will not be used unless no other form of contract is suitable and the contract includes a “Not to Exceed” amount. A time and materials contract shall not be awarded without express written permission of the federal agency or state pass-through agency that awarded the funds.
- f. **Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.
- g. **Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach.
- h. **Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business

enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.

- i. **Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include the procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor's responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request. A copy of this documentation should also be on file at the school level.
- j. **Cost Estimate.** For all procurements costing \$250,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- k. **Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II.C of this Policy.
- l. **Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder's list.
- m. **Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- n. **Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The procurement process shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding, specifying a brand name without allowing for "or equal" products, or other unnecessary requirements that have the effect of restricting competition.
- o. **Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.

4. **Specific Procurement Procedures**

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

- a. **Service Contracts** (except for A/E professional services) and **Purchase Contracts costing less than \$10,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:
 - i. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 - ii. To the extent practicable, purchases must be distributed among qualified suppliers.
- b. **Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$10,000 up to \$90,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:
 - i. Obtain price or rate quotes from an “adequate number” of qualified sources Yancey County Schools has determined that at least three bids or quotes to be obtained. A copy of this documentation should be attached to the signed receiving copy of the purchase order submitted to the Finance Office.
 - ii. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 - iii. Cost or price analysis is not required prior to soliciting bids.
 - iv. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
 - v. Award the contract to the lowest responsive, responsible bidder.
 - vi. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the Requesting Department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 - vii. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 - viii. Cost or price analysis is not required prior to soliciting bids.
 - ix. Award the contract on a fixed-price basis (a not-to-exceed basis is permissible for service contracts where obtaining a fixed price is not feasible).
 - x. Award the contract to the lowest responsive, responsible bidder.
- c. **Service Contracts** (except for A/E professional services) and **Purchase Contracts costing \$90,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance

“sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:

- i. Cost or price analysis is required prior to soliciting bids.
 - ii. Complete specifications or purchase description must be made available to all bidders.
 - iii. The bid must be formally advertised in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
 - iv. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 - v. Open bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.
 - vi. Award the contract to the lowest responsive, responsible bidder on a fixed-price basis. Governing board approval is required for purchase contracts unless the governing board has delegated award authority to an individual official or employee. Any and all bids may be rejected only for “sound documented reasons.”
- d. **Service Contracts** (except for A/E professional services) **costing \$250,000 and above** may be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought. The procedures are as follows:
- i. A Request for Proposals (RFP) must be publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.
 - ii. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 - iii. Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
 - iv. Consider all responses to the publicized RFP to the maximum extent practical.
 - v. Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
 - vi. Award the contract to the responsible firm with the most advantageous proposal taking into account price and other factors identified in the RFP. Governing board approval is not required.
 - vii. Award the contract on a fixed-price or cost-reimbursement basis.

- e. **Construction and repair contracts costing less than \$10,000** shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. § 200.320(a)) as follows:
 - i. The contract may be awarded without soliciting pricing or bids if the price of the goods or services is considered to be fair and reasonable.
 - ii. To the extent practicable, contracts must be distributed among qualified suppliers.
- f. **Construction and repair contracts costing \$10,000 up to \$250,000** shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b)) as follows:
 - i. Obtain price or rate quotes from an “adequate number” of qualified sources (a federal grantor agency might issue guidance interpreting “adequate number,” so the requesting department should review the terms and conditions of the grant award documents to confirm whether specific guidance has been issued).
 - ii. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
 - iii. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
 - iv. Award the contract on a fixed-price or not-to-exceed basis.
 - v. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.
- g. **Construction and repair contracts costing \$250,000 up to \$500,000** shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) as follows:
 - i. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
 - ii. Complete specifications must be made available to all bidders.
 - iii. Publicly advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained.
 - iv. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 - v. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed. A minimum of 2 bids must be received in order to open all bids.

- vi. A 5% bid bond is required of all bidders. Performance and payment bonds of 100% of the contract price is required of the winning bidder.
 - vii. Award the contract on a firm fixed-price basis.
 - viii. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required. Any and all bids may be rejected only for “sound documented reasons.”
- h. **Construction and repair contracts costing \$500,000 and above** shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129) as follows:
 - i. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
 - ii. Complete specifications must be made available to all bidders.
 - iii. Formally advertise the bid in a newspaper of general circulation for at least seven full days between the date of the advertisement and the date of the public bid opening. Electronic-only advertising must be authorized by the governing board. The advertisement must state the date, time, and location of the public bid opening, indicate where specifications may be obtained, and reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
 - iv. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 - v. Open the bids at the public bid opening on the date, time, and at the location noticed in the public advertisement. All bids must be submitted sealed and in paper form. A minimum of 3 bids must be received in order to open all bids.
 - vi. A 5% bid bond is required of all bidders (a bid that does not include a bid bond cannot be counted toward the 3-bid minimum requirement). Performance and payment bonds of 100% of the contract price is required of the winning bidder.
 - vii. Award the contract on a firm fixed-price basis.
 - viii. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject all bids only for “sound documented reasons.”
- i. **Construction or repair contracts involving a building costing \$300,000 and above** must comply with the following additional requirements under state law:
 - i. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts, shall apply.

- ii. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
 - iii. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).
- j. **Contracts for Architectural and Engineering Services costing under \$250,000** shall be procured using the state “Mini-Brooks Act” requirements (G.S. 143-64.31) as follows:
 - i. Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 - ii. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
 - iii. Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
 - iv. Rank respondents based on qualifications and select the best qualified firm. Price cannot be a factor in the evaluation. Preference may be given to in-state (but not local) firms.
 - v. Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
 - vi. Award the contract to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.
- k. **Contracts for Architectural and Engineering Services costing \$250,000 or more** shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)(5)) as follows:
 - i. Publicly advertise a Request for Qualifications (RFQ) to solicit qualifications from qualified firms (formal advertisement in a newspaper is not required). Price (other than unit cost) shall not be solicited in the RFQ.
 - ii. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
 - iii. Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
 - iv. Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
 - v. Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.

- vi. Consider all responses to the publicized RFQ to the maximum extent practical.
- vii. Evaluate qualifications of respondents to rank respondents and select the most qualified firm. Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
- viii. Price cannot be a factor in the initial selection of the most qualified firm.
- ix. Once the most qualified firm is selected, negotiate fair and reasonable compensation. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
- x. Award the contract to the best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

5. **Exceptions**

Non-competitive contracts are allowed *only* under the following conditions and with the written approval of the federal agency or state pass-through agency (DPI) that awarded the federal funds. Use the following link to access the *required* request form:

<http://www.ncpublicschools.org/docs/fbs/finance/federal/ffprocurementrequest.pdf>

- a. **Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- b. **Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- c. **Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- d. **Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.

- e. **Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law. Use the following link to access the *required* request form:

<http://www.ncpublicschools.org/docs/fbs/finance/federal/ffprocurementrequest.pdf>

Legal References: 2. C.F.R. Part 180; 2 S.F.R. Part 200; G.S. 14-234; 133-32

Cross References: Prohibition Against Retaliation (Policy 1760/7280), Board Member Conflict of Interest (policy 2121), Ethics and the Purchasing Function (policy 6401/9100), Employee Conflict of Interest (policy 7730), Fiscal Management Standards (policy 8300)

Other Resources: *Standards for Internal Control in the Federal Government* (“*The Green Book*”) (U.S. Government Accountability Office), available at <http://www.gao.gov/greenbook/overview>; *Internal Control Framework* (Committee of Sponsoring Organizations of the Treadway Commission (COSO)), executive summary, available at <https://www.coso.org/pages/ic.aspx>; *Compliance Supplement, Part 6, Internal Control* (Office of Management and Budget), available at <https://www.whitehouse.gov/omb/office-federal-financial-management/>

Adopted: July 5, 2016, June 27, 2018, November 5, 2018

Revised: April 11, 2022