Bid or Request for Proposal Requirements

The Educational Service District 123 (ESD 123) Board establishes this policy to ensure all procurements comply with Washington State and federal regulations while permitting the timely acquisition of goods and services at fair and reasonable prices. For the purposes of this policy, all dollar limits will be instituted on the basis of the entire cost of the acquisition with each vendor for the project. This policy is to guide the purchases of goods, services, and the procurement of public works.

The board recognizes the importance of:

- maximizing the use of district resources;
- the need for sound business practices in spending public money;
- the requirement of complying with state and federal laws governing purchasing and public works;
- the importance of standardized purchasing regulations; and
- the need for clear documentation.

I. Procurement and Public Works Using Non-Federal Funds

A. Furniture, Supplies, or Equipment

Whenever the estimated cost of furniture, supplies, or equipment (except books) will cost:

- less than $40,000, no competitive bidding process is required to make the purchase;
- between $40,000 and $75,000, the District will follow its informal competitive bidding procedure; and
- over $75,000, the District will follow its formal competitive bidding process. by:

    1. preparing clear and definite plans and specifications for such purchases;
    2. providing notice of the call for formal bids by publication in at least one newspaper of general circulation in the district at least once each week for two consecutive weeks;
    3. ensuring that the district takes steps to assure that when possible, the district will use small and minority businesses, women's business enterprises, and labor surplus firms;
    4. providing the clear and definite plans and specifications to those interested in submitting a bid;
    5. requiring that bids be in writing;
    6. opening and reading bids in public on the date and in the place named in the notice; and
    7. filing all bids for public inspection after opening.

B. Use of Non-Federal Funds for Improvements or Repairs

The District may make improvements or repairs to district property through a district department without following the competitive bidding process if the total cost of improvements or repairs does not exceed $100,000 ~~75,000~~. If the District estimates that the total cost of a building, improvement, repair, or other public works project is $100,000 or more, the District will follow its formal competitive bidding procedure outlined above, unless the contract is let using the small works roster process authorized by RCW 39.04.151 through 39.04.154 or under any other procedure authorized for school districts. There are

no statutory bidding requirements for public works projects involving improvements or repairs that are under $100,000. For projects in this range, the district may consider any of these options: using its small works roster process, under RCW 39.04.151 through 39.04.154; using an inter-local agreement or contract with a vendor of the district's choice, without any competitive process, under RCW 28A.335.190; or choosing to require quotes for the work to make the process more competitive.

C. Construction-related services
The District, when contracting for construction-related professional and personal services, shall include in bid documents language that encourages participation by minority or women-owned business enterprises. The services covered by this section include, but are not limited to, construction management services, value engineering services, and building commissioning services.

D. Exemptions
The District may waive bid requirements for purchases:

- clearly and legitimately limited to a single source of supply;
- involving special facilities or market conditions;
- in the event of an emergency;
- of insurance or bonds; and
- involving public works in the event of an emergency.

"Emergency" means unforeseen circumstances beyond the district's control that present a real, immediate threat to the proper performance of essential functions or will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

The District may also waive bid requirements for making improvements to district property if it contracts with an eligible local organization, such as a chamber of commerce, service organization, or other community, youth, or athletic association. Such organizations may utilize non-paid volunteers for completing the projects. The total value of such contracts may not exceed the lesser of $75,000 or $2 per resident of the district in a calendar year.

Whenever the District waives bid requirements, the District will issue a document explaining the factual basis for the exception and record the contract for open public inspection.

E. Rejection of Bids
The District may, by resolution, reject any and all bids and make further calls for bids in the same manner as the original call.

F. Interlocal Cooperation Act
In coordination with the Interlocal Cooperation Act, Chapter 39.34 RCW, the district may enter into cooperative purchasing agreements with other governmental entities or groups of governmental entities. These agreements may allow the district to purchase items using an existing agreement without going through the standard procurement bid requirements.

Prior to enactment of any agreement under this authority, the district will review the work of the governmental entity to ensure the following requirements are met:

1) The governmental entity conducted its own procurement process relating to the contract under consideration.
    a. The awarding entity must maintain adequate documentation on the procurement process for the contract under consideration.

   b. The awarding entity must have posted the bid notice on a website maintained by a public agency, purchasing cooperative, or other service provider, or posted a link on the state's web portal.
2) The contract contains language that it is open for use by other entities and is not expired.
3) The specifications laid out in the contract match the specifications identified by the district. Any options that are agreed to in the contract are available to the district; any options that are not agreed to in the contract are not allowed.
4) Any cooperative agreement for public works projects contains the same specifications, and the scope of the work is essentially the same for the district as for the contract's signatory district.
5) Ensure the cost is reasonable based on a cost/price analysis.

Once the district has completed these steps, it may enter into an agreement with the other entity to utilize their contract. The contract must be signed by both parties prior to any procurement taking place on the part of the district.

G. Crimes Against Children
The District will include in any contract for services with an entity or individual other than an employee of the district a provision requiring the contractor to prohibit any employee of the contractor from working at a public school who has contact with children at a public school during the course of his or her employment and who has pled guilty to or been convicted of any felony crime specified under RCW 28A.400.322. The contract shall also contain a provision that any failure to comply with this section shall be grounds for the district immediately terminating the contract.

H. Women and Minority Owned Businesses
The district will ensure that it is providing every opportunity for businesses owned by women or minorities to submit bids on any contract. The district will maintain documentation of efforts to collect bids from women or minority-owned businesses as a part of the bidding process. The district will also ensure that any small works roster or similar list is open and available to participation by women or minority-owned businesses, and that such businesses on its small works roster are treated fairly and equally when requesting bids.

II. Procurement Using Federal Funds

A. Goods
When the district uses federal funds for procurement of textbooks, the allowable self-certification is $50,000. When the district uses federal funds for procurement of goods, including furniture, supplies, and equipment:

- Purchases of $15,000 or less do not require quotes. However, the district must consider the price to be reasonable based on research, experience, purchase history, or other information and must document this determination. In addition, to the extent practical, purchases must be distributed equitably among suppliers.
- Purchases between $15,000 and $75,000 must be procured using price or rate quotations from three or more qualified sources.
- Purchases of $75,000 or more must be publicly solicited using its formal bidding procedure.

Self-Certification
If during a given fiscal year, the district qualifies as a low-risk auditee in accordance with criteria in 2 C.F.R. § 200.520, as determined by the auditor, or has documentation it received a low risk assessment after an annual internal institutional risk assessment to identify, mitigate, and manage financial risks, then the district may use the following Self Certification thresholds instead of the ones described above:

- Purchases of $40,000 or less do not require quotes. However, the district must consider the price to be reasonable based on research, experience, purchase history or other information and must document this determination. In addition, to the extent practical, purchases must be distributed equitably among suppliers.
- Purchases between $40,000 and $75,000 must be procured using price or rate quotations from three or more qualified sources.
- Purchases of $75,000 or more must be publicly solicited using the district's formal bidding procedure.

If the district uses Self-Certification, the Superintendent will develop Self-Certification procedures to accompany this policy. Additionally, if the district qualifies for Self-Certification and wants to go above the $40,000 or $50,000 Self-Certification limits, the district reserves the right to seek approval for higher limits from OSPI.

B. Services
When the district uses federal funds for procurement of services:

- Purchases of $15,000 or less do not require quotes. However, the district must consider price to be reasonable based on research, experience, purchase history, or other information and must document this determination. In addition, to the extent practical, purchases should be distributed equitably among suppliers.
- Purchases between $15,000 and $350,000 must be procured using price or rate quotations from a reasonable number of qualified sources.
- Purchases of $350,000 or more must be publicly solicited using the district's formal bidding procedure.

Self-Certification
If during a given fiscal year, the district qualifies as a low-risk auditee in accordance with criteria in 2 C.F.R. § 200.520, as determined by the auditor, or has documentation it received a low risk assessment after an annual internal institutional risk assessment to identify, mitigate, and manage financial risks, then the district may use the following Self-Certification thresholds instead of the ones described above:

- Purchases of $50,000 or less do not require quotes. However, the district must consider the price to be reasonable based on research, experience, purchase history or other information and must document this determination. In addition, to the extend practical, purchases should be distributed equitably among suppliers.
- Purchases between $50,000 and $350,000 must be procured using price or rate quotations from a reasonable number of qualified sources.
- Purchases of $350,000 or more must be publicly solicited using sealed bids or requests for proposals.

If the district uses Self-Certification, the Superintendent will develop Self-Certification procedures to accompany this policy. Additionally, if the district qualifies for Self-Certification and wants to go above the $40,000 or $50,000 Self-Certification limits, the district reserves the right to seek approval for higher limits from OSPI.

C. Noncompetitive Procurement
Noncompetitive procurement may be used only when one of the following five circumstances applies:

- Acquiring property or services that do not exceed $15,000 [or in the case of a school district that qualifies as a low-risk auditee in accordance with criteria in 2 C.F.R. § 200.520 or has documentation of an annual internal institutional risk assessment to identify, mitigate, and manage financial risks, $40,000];
- The item is only available from a single source;
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- The awarding agency (e.g., OSPI) authorizes noncompetitive procurement in response to a written request from the district; or
- After solicitation of a number of sources, competition is determined inadequate.

The district must maintain documentation supporting the applicable circumstance for noncompetitive procurement.

D. Cost/Price Analysis
The district will perform a cost or price analysis in connection with every procurement action in excess of the federal simplified acquisition threshold, currently set at $250,000 or other limits identified in 48 CFR 2.101, including contract modifications. The method and degree of analysis is dependent on facts surrounding the procurement situation, but should include, as a starting point, independent estimates before receiving bids or proposals.
In cases where no price competition exists and in all cases where the district performs the cost analysis, profit must be negotiated as a separate element in the process. To ensure profit is fair and reasonable, consideration must be given to the complexity of the work performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of the contractor's past performances, and industry standard profit rates in the surrounding geographical area.

Costs or prices based on estimated costs for contracts are allowed only to the extent that the costs incurred or cost estimates would be allowable under 2 CFR 200.400.476.

E. Suspension and Debarment
Before entering into federally funded vendor contracts for goods and services that equal or exceed $25,000 and any subcontract award, the district will ensure the vendor is not suspended or debarred from participating in federal assistance programs.

F. Conflict of Interest
No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by federal funds if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that 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.

No employee, officer, or agent of the district may solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. Violation of these standards may result in disciplinary action including, but not limited to, suspension, dismissal, or removal.

G. Interlocal Cooperation Act

In coordination with the Interlocal Cooperation Act, Chapter 39.34 RCW, the district may enter into cooperative purchasing agreements with other governmental entities or groups of governmental entities. These agreements may allow the district to purchase items using an existing agreement without going through the standard procurement bid requirements.

Prior to enactment of any agreement under this authority, the district will review the work of the governmental entity to ensure the following requirements are met:

1) The governmental entity conducted its own procurement process relating to the contract under consideration.
    a. The awarding entity must maintain adequate documentation on the procurement process for the contract under consideration.
    b. The awarding entity must have posted the bid notice on a website maintained by a public agency, purchasing cooperative, or other service provider, or posted a link on the state's web portal.
    c. The contracting agency must ensure that it meets any procurement requirements laid out in 2 CFR §200.317 – 200.327.
2) The contract contains language that it is open for use by other entities and is not expired.
3) The specifications laid out in the contract match the specifications identified by the district. Any options that are agreed to in the contract are available to the district; any options that are not agreed to in the contract are not allowed.
4) Any cooperative agreement for public works projects contains the same specifications, and the scope of the work is essentially the same for the district as for the contract's signatory district.
5) Ensure the cost is reasonable based on a cost/price analysis.
6) The district must verify that the awarding entity is neither suspended nor debarred from participating in federal assistance programs.
7) The district must also verify that the contract contains all contract provisions described in 2 CFR §200.327 and Appendix II to Part 200.

Once the district has completed these steps, it may enter into an agreement with the other entity to utilize their contract. The contract must be signed by both parties prior to any procurement taking place on the part of the district.

H. Women and Minority-Owned Businesses

The district will ensure that it is providing every opportunity for businesses owned by women or minorities to submit bids on any contract. The district will maintain documentation of efforts to collect bids from women or minority-owned businesses as a part of the bidding process. The district will also ensure that any small works roster or similar list is open and available to participation by women or minority-owned businesses, and that such businesses on its small works roster are treated fairly and equally when requesting bids. The district will also include language requiring any prime contractor that employs subcontractors to show proof that it provides equal opportunity for bidding to women or minority-owned businesses.

I. Federal Agency or Pass-Through Entity Review

The district will maintain records of all purchases made using Federal funds and shall provide any and all documentation to the Federal awarding agency or the state pass-through entity for compliance with all rules and regulations.

III. Procedures

The superintendent or designee will establish bidding and contract awarding procedures consistent with state and federal law.

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Legal References:	RCW 28A.335.190 Advertising for bids — Competitive bid procedures — Purchases from inmate work programs — Telephone or written quotation solicitation, limitations — Emergencies RCW 28A.400.330Crimes against children — Contractor employees — Termination of contract RCW 39.04.155Small works roster contract procedures — Limited public works process Definition RCW 39.04.280Competitive bidding requirements — Exemptions RCW 39.26.160 Bid Awards - Considerations - Requirements and criteria to be set forth - Negotiations - Use of enterprise vendor registrations and bid notification system RCW 39.30.060 Bids on public works — Identification, substitution of contractors Chapter. 39.34 RCW Interlocal Cooperation Act 2 CFR Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards 2 CFR 200.67 Mirco-purchase 2 CFR 200.88 Simplified Acquisition Threshold 2 CFR §200.318 – General Procurement Standards 2 CFR 200.320 Methods of Procurement to be Followed 2 CFR 3485 Nonprocurement Debarment and Suspension 2 CFR 200.520 Criteria for a low-risk auditee 2 CFR 200.324 Contract Cost and Price 2 CFR 200.321 Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms. 2 CFR 200.325 Federal awarding agency or pass-through entity review.