

Purchasing

AUTHORITY

The Kentucky Model Procurement Code contains specific provisions in KRS 45A.345 to 45A.460 that may be adopted by local public agencies, including local boards of education. The Board has adopted the local public agency provisions of the Code. [KRS 45A.343](#) provides that no other statutes governing purchasing shall apply to the local public agency upon adoption of these provisions. The Board has adopted procurement regulations, not inconsistent with the local public agency provisions, as permitted by [KRS 45A.360](#). The Superintendent shall develop procedures for the implementation of the local public agency provisions of the Code and the Board's procurement regulations.

GENERAL PURCHASING REQUIREMENTS

All contracts and purchases shall comply with the local public agency provisions of the Code and the Board's procurement regulations. All contracts and purchases shall be made through competitive sealed bidding¹ or competitive negotiation, both of which may include the use of a reverse auction, unless the purchase or contract satisfies the requirements for noncompetitive negotiation or small purchases.

PURCHASING FROM MINORITY, WOMEN, AND VETERAN-OWNED ENTERPRISES

The Board supports the purchase of goods; construction, renovation and repair services; and other services from minority, women, and veteran business enterprises (M/W/VBE) by the District.

The District shall develop and implement purchasing procedures, in accordance with the Kentucky Model Procurement Code (KRS 45A.345 to 45A.460) and related administrative regulations, and other pertinent state and federal laws that actively promote increasing opportunities for M/W/VBE to become vendors providing goods and services to the District.

This policy and related procedures shall establish expectations of good faith efforts by prospective vendors for M/W/VBE participation and include mechanisms to document and measure those efforts.

LEADERSHIP

District leadership shall take an active role to ensure effective implementation of this policy. The Superintendent, Chief Operations Officer, Chief Financial Officer, and Chief Equity Officer and Coordinator Minority Enterprise shall:

1. Review the results of the performance of the District's implementation of this policy with internal management personnel on a periodic basis;
2. Articulate in written and verbal communication, internally and externally, the District's interest in achieving the goal of increasing opportunities for M/W/VBE participation with District procurement;
3. Issue periodic reports to the Board and to other internal and external stakeholders; and
4. Engage in other leadership activities contributing to increasing the utilization and meeting of M/W/VBE goals of this policy.

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ADMINISTRATION

The Purchasing Department and Facility Planning Department shall incorporate procedures established under this policy as part of their financial and management responsibilities over District procurement processes. The Chief Equity Officer and the Coordinator Minority Enterprise shall be responsible for supporting effective implementation of this policy.

DEFINITIONS

As used in this policy:

Construction, renovation, and repair services means the erection, construction, alteration, or repair of District facilities.

Goods means supplies, materials, and equipment.

Other services means services procured by District that are not construction, renovation, and repair services.

Minority Business Enterprise (MBE) means a business that is certified as being at least fifty-one percent (51%) controlled by one (1) or more racial/ethnic minority persons of either sex. A racial/ethnic minority person shall be described as follows: Black or African American, Asian, American Indian and Alaska Native, Native Hawaiian and Other Pacific Islander, Hispanic or Latino.

Woman Business Enterprise (WBE) means a business that is certified as being at least fifty-one percent (51%) controlled by one or more non-minority women.

Veteran Business Enterprise (VBE) means a small business that is certified as being at least fifty-one percent (51%) controlled by one (1) or more veterans, and that has one or more veterans managing day-to-day operations and also making long-term decisions.

M/WBE means a minority and women business enterprise.

M/W/VBE means a minority, women and veteran-business enterprise.

CERTIFICATION OF M/W/VBE

M/W/VBE are certified and classified by a variety of entities. The District shall accept M/W/VBE certification from any bona fide certifying entity, including, but not limited to Louisville Metro Government, the Kentucky Finance and Administration Cabinet, Tri-State Minority Supplier Development Council, and the National Women's Business Enterprise Council. Additionally, District staff may classify businesses that are not certified by the above entities if a business demonstrates that it meets the certifying entities' definition of an M/W/VBE.

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SUPPORT FOR M/W/VBE VENDOR UTILIZATION

The District shall maintain a master database of MBE, WBE, and VBE vendors, and establish procedures for its use, to assist District staff responsible for bidding and purchase process in meeting good faith effort requirements.

The District shall establish an ongoing outreach effort to M/W/VBE vendors, including, but not limited to providing information and guidance regarding doing business with the District, assisting vendors with the District's e-procurement system. The District shall establish and maintain partnerships with existing management and technical assistance providers to assist M/W/VBE in securing and meeting performance expectation for District contracts.

M/W/VBE GOALS AND GOOD FAITH EFFORT

For Construction, Renovation, and Repair Services Projects, the District's goals are as follows:

1. Fifteen percent (15%) MBE participation;
2. Ten percent (10%) WBE participation; and
3. VBE participation at a rate established by the Chief Equity Officer and the Chief Financial Officer based on research of best practices of peer school districts and other governmental entities.

Bidders who utilize subcontractors shall make good faith efforts to meet the District's M/W/VBE goals for subcontractors used for each project on which they bid. Bidders who do not meet the goals shall submit documentation of their good faith efforts in soliciting pricing, as set forth in the District's procedures for bidders. Award of contract shall be conditional upon the bidder's satisfaction of these requirements.

PURCHASE OF GOODS AND OTHER SERVICES

District staff shall make good faith efforts to utilize M/W/VBE vendors in accordance with standards and documentation requirements set forth in District purchasing procedures. At a minimum, District staff responsible for soliciting three price quotes for non-bid items shall make a good faith effort to include at least one M/W/VBE vendor per bid, identified utilizing the master database maintained by the Coordinator Minority Enterprise and other means.

DETERMINATION OF ANNUAL GOALS

Each year, the Coordinator Minority Enterprise establish a goal-setting work group to set aspirational goals for M/W/VBE utilization the next fiscal year in the following categories:

1. Construction;
2. Architecture and Engineering;
3. Professional Services;
4. Goods; and
5. Other Services.

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DOCUMENTATION, REPORTING, AND EVALUATION

The Coordinator Minority Enterprise shall establish procedures for the collection, maintenance, and tracking of records at the District, division, department and school level relating to implementation of this policy to include, but not be limited to:

1. Documentation of compliance with the good faith effort requirements including periodic site visits; and
2. Statistics regarding the utilization of M/W/VBE by District Divisions, Departments, and Schools.

The Chief Equity Officer shall:

1. Submit quarterly written reports to the Board regarding the implementation of this policy; and
2. Conduct periodic formal evaluations of the effectiveness of the M/W/VBE program.

ETHICAL STANDARDS

To avoid conflicts that may arise during the decision-making process for procurement of services and products for the District, employees shall adhere to the ethical standards set out in KRS 45A.455 and the Board's procurement regulations.

FEDERAL AWARDS/CONFLICT OF INTEREST

No employee, officer, or agent of the District may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.³

FEDERAL AWARDS/CONFLICT OF INTEREST (CONTINUED)

The officers, employees, and agents of the District may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. In determining whether an activity constitutes an impermissible acceptance of a gratuity or item of monetary value, "gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than twenty-five dollars (\$25.00) in value, present or promised, unless consideration of substantially equal or greater value is received. Violation of these standards may result in disciplinary action including, but not limited, to suspension, dismissal, or removal.

PREFERENCE FOR RESIDENT BIDDERS

For all contracts funded in whole or in part by the District, the Board shall apply the reciprocal preference for resident bidders required by law. Geographical preferences relating to school nutrition service purchases may be utilized only as permitted by applicable federal law.²

EXEMPTIONS

Federal regulatory requirements do not provide a bidding exception for purchase of perishables using school nutrition service funds. Such purchase must follow applicable federal regulations.³

Purchasing**BACKGROUND CHECK FOR CONTRACTORS**

The Superintendent shall require a contractor who works on school premises during school hours to submit, at no expense to the District, to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation and to provide a letter from the Cabinet for Health and Family Services stating that there are no findings of substantiated child abuse or neglect on record in keeping with KRS 160.380.

The Superintendent may require a contractor who does not have contact with students to submit, at no expense to the District, to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation and to provide a letter from the Cabinet for Health and Family Services stating that there are no findings of substantiated child abuse or neglect on record. These provisions shall become part of the contractual obligation of the contractor and shall be reflected in the bid specifications, or, if the contract is not subject to bid requirements, in the negotiations with the contractor.

Link to DPP-156 Central Registry Check and more information on the required Cabinet Letter:

<http://manuals.sp.chfs.ky.gov/chapter30/33/Pages/3013RequestfromthePublicforCANCHECKSANDCentralRegistryChecks.aspx>

“Contractor” shall refer to any adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term “contractor” includes an employee of a contractor.⁴

REFERENCES:

¹Includes the State Bid List

²KRS 160.303; 200 KAR 5:400; KRS 45A.494

³2 C.F.R. 200.318

⁴ KRS 160.380

KRS 156.076; KRS 160.290

KRS 45A.070; KRS 45A.343; KRS 45A.345; KRS 45A.352; KRS 45A.360; KRS 45A.370

KRS 45A.380; KRS 45A.385; KRS 45A.420; KRS 45A.445; KRS 45A.455

KRS 45A.460; KRS 45A.620

KRS 65.027; KRS 160.151; KRS 162.070; KRS 164A.575; KRS 176.080

OAG 79-501; OAG 82-170; OAG 82-407

Kentucky Educational Technology Systems (KETS)

RELATED POLICIES:

05.1; 06.4; 07.13