

FISCAL MANAGEMENT

04.32

Model Procurement Code Purchasing**AUTHORITY**

Purchasing procedures shall conform to the Model Procurement Code, [KRS 45A.345](#) - [KRS 45A.460](#).¹ All contracts or purchases shall be awarded by competitive sealed bidding or competitive negotiation, both of which may include the use of a reverse auction, except as otherwise provided by law.²

All purchases of Kentucky Education Technology System (KETS) components shall adhere to KETS architectural standards and procedures.

The District may purchase supplies and/or equipment outside an established price contract of the federal government (GSA), the State Division of Purchases, a cooperative agency bid approved by the Board, or a District bid if:

1. The supplies and/or equipment meet the specifications of contracts awarded by the Division of Purchases, a federal agency (GSA), a cooperative agency, or a District bid;
2. The supplies and/or equipment are available for purchase at a lower price;
3. The purchase does not exceed \$2,500^{4 & 8}; and
4. The District's finance or purchasing officer has certified compliance with the first and second requirements.

The Fayette County Public School System (FCPS) ~~promotes~~ supports the participation of Minority, Women, and Veterans' Business Enterprises (MBE/WBE/VBE) in the bidding process, as vendors and construction contractors. ~~The FCPS Manager of Economic Development and Supplier Diversity~~ District leadership shall annually track and report the inclusion and participation of minority-, women-, and veteran-owned businesses from all procurement contracts, projects and awards ~~in an effort to reach~~ relative to the District's annual ~~MBE/WBE/VBE goal from the District's annual spend.~~ District leadership shall present data to the Board on the participation of minority, women, and veteran-owned businesses on at least an annual basis.

Prior to purchase of education technology components defined in the master technology plan, the Department of Education must certify that the items to be purchased meet or exceed the specifications of components of the original equipment of manufacturers currently holding Kentucky price contracts.⁴

PURCHASING FROM MINORITY, WOMEN AND VETERAN BUSINESS ENTERPRISES

The Board supports the purchase of goods; construction, renovation and repair services; and other services from minority, women, and veteran-owned businesses 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); KRS Chapters 136, 139, 141, 337, 338, 341, and 342; related administrative regulations; and other pertinent state and federal laws, that actively promote increasing opportunities for minority, women, and veteran-owned businesses to become vendors providing goods and services to the District.

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This policy and related procedures shall establish expectations of good faith efforts by prospective vendors for minority, women, and veteran-owned business participation and include mechanisms to document and measure those efforts. However, nothing about the terms of this policy, nor any related procedure or form, shall be construed to mean the District will not comply with applicable provisions of procurement law, including but not necessarily limited to applicable provisions of KRS Chapter 45A, nor shall it be construed to mean the District will award contracts to bidders, contractors, and subcontractors who are not qualified, willing, and able to perform a given contract or project.

The District shall establish procedures for its use, to assist District staff responsible for bidding and purchase processes in meeting good faith effort requirements.

ADMINISTRATION

District leadership shall incorporate procedures established under this policy as part of their financial and management responsibilities over District procurement processes. District leadership shall be responsible for supporting effective implementation of this policy. District leadership may also encourage, track, and report the inclusion and participation of potentially underrepresented businesses not addressed in 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, Hispanic-American, Asian-American, Native American.

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

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SUPPORT FOR VENDOR UTILIZATION

The District shall establish an ongoing outreach effort to MBEs, WBEs, and VBEs including, but not limited to providing information and guidance regarding doing business with the District and 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 MBEs and WBEs in securing and meeting performance expectations for District contracts.

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M/W/VBE GOALS AND GOOD FAITH EFFORT

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For Construction, Renovation, and Repair Services Projects

The District is committed to inclusive practices and supports equitable opportunities for minority, and women, and veteran-owned businesses to participate in construction contracting opportunities. The District shall utilize relevant and objective data acquired from its own studies and/or other governmental entities to determine the availability of M/W/VBEs in its geographic area and shall make efforts to ensure its participation goals reasonably reflect that availability. The District shall establish objective evaluation criteria that encourages prime contractors to work with minority, and women, and veteran-owned subcontractors or suppliers they have not previously worked with. Such criteria may include but not necessarily be limited to (1) awarding evaluation points for working with such subcontractors or suppliers; or (2) requiring prime contractors to either identify and use at least one such subcontractor or supplier or submit documented good faith efforts to identify and use at least one such subcontractor or supplier for the project at issue.

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PURCHASE OF GOODS AND OTHER SERVICES

District staff shall make good faith efforts to utilize minority, women, and veteran-owned business vendors in accordance with documentation requirements set forth in District purchasing procedures. At a minimum, when feasible, District staff responsible for soliciting three price quotes for non-bid items shall make a good faith effort to include at least one minority, or women, or veteran-owned business vendor per quote, provided that in no case shall the District award contracts to bidders, contractors, and subcontractors who are not qualified, willing, and able to perform a given contract or project.

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OTHER EFFORTS

The District, pursuant to established procedures, may use other efforts to increase minority, and women, and veteran-owned business participation including but not limited to reserving certain small prime contracts for minority, and women, and veteran-owned businesses, using invoice tracking software or systems to help ensure minority, women, and veteran-owned businesses are being used where required, sponsoring lender fairs, and establishing mentoring programs for minority, women, and veteran-owned businesses interested in doing business with the District.

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District leadership shall establish procedures for the collection, maintenance, and tracking of records at the District, 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; and
2. Statistics regarding the utilization of MBEs, ~~and~~ WBEs, and VBEs by District Departments and Schools.

District leadership shall:

1. Submit annual written reports to the Board regarding the implementation of this policy; and
2. Conduct annual formal evaluations of the effectiveness of the ~~minority, and woman,~~ and veteran-owned business program.

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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.⁸

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, the definition of "gratuity" (covering anything of more than fifty dollars [\$50] value) set forth in [KRS 45A.445](#) shall apply. Violation of these standards may result in disciplinary action including, but not limited, to suspension, dismissal, or removal.

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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.

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.⁸

USE OF NON-RESIDENT SUBCONTRACTORS

A bidder that is awarded a contract for a construction, renovation, or repair services project that utilizes subcontractors shall make an effort to subcontract with resident businesses of the Commonwealth. Bidders that utilize subcontractors based outside of Kentucky shall submit documentation of their efforts to solicit pricing from subcontractors based in the Commonwealth.

PRICE REDUCTIONS

Price reductions may be accepted on supplies and/or equipment being offered by the vendor with whom a price agreement has been made if the supplies and/or equipment meet all terms and conditions specified in the price agreement except for price and if the price reduction is offered to all participants in the price agreement. Price reductions may be accepted even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement.

SMALL PURCHASES

District small purchase procedures may be used for any contract in which the aggregate amount does not exceed \$30,000.00.⁵

ADVERTISEMENT OF BIDS

Adequate public notice of invitations for bids shall be provided through posting via the District's web-based procurement portal and on the Internet or publication in the legal section of the local newspaper.⁶

WAIVER STIPULATION

The Board shall reserve the right to waive defects and informalities in proposals, to reject or accept any proposal, and to award by item, combination of items or lot.

RECORDING OF BIDS

All bids meeting Board specifications shall be recorded in Board minutes. In the event the lowest bid is not accepted, the Board shall record in the minutes the reason for the rejection.⁷

BACKGROUND CHECKS

The Superintendent shall require an adult who is permitted access to school grounds on a regularly scheduled and continuing basis pursuant to a written agreement for the purpose of providing services directly to a student or students as part of a school-sponsored program or activity to submit, at no expense to the District, to a national and state criminal history

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background check by the Kentucky State Police and the Federal Bureau of Investigation and to provide a clear CA/N check in keeping with [KRS 160.380](#).⁹

Link to DPP-156 Central Registry Check and more information on the required CA/N check:

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

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REFERENCES:

- ¹ [KRS 45A.343](#)
² [KRS 45A.345](#); [KRS 160.290](#); [KRS 45A.380](#)
³ [KRS 160.303](#); [200 KAR 005:400](#); [KRS 45A.494](#)
⁴ [KRS 156.076](#)
⁵ [KRS 45A.385](#)
⁶ [KRS 45A.365](#)
⁷ [702 KAR 003:135](#)
⁸ 2 C.F.R. 200.318 [KRS 160.380](#); [OAG 79-501](#); [OAG 82-170](#); [OAG 82-407](#)
⁹ [KRS 160.380](#)
⁸ [KRS 45A.360](#)
[KRS 45A.352](#); [KRS 45A.365](#); [KRS 45A.370](#)
[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](#)
Kentucky Educational Technology Systems (KETS)

RELATED POLICIES:

05.6; 06.4; 07.13

Adopted/Amended: 6/24/2019
Order #: