Regulation Code: DJ-R Purchasing/Contracting

3. M/W/SBE Department

The M/W/SBE Department shall review all proposed purchases greater than or equal to $5,000 and shall work with the Submitting Departments and the Procurement Services Department to ensure compliance with Regulation DJA-R. All requisitions greater than or equal to $5,000 shall be forwarded to the M/W/SBE Department for consideration of appropriate outreach opportunity. The M/W/SBE Department will notify the Procurement Services Department and the Submitting Department of possible vendors to be included in the applicable procurement process. The M/W/SBE Department shall also be responsible for the outreach efforts described in Section 7 of Regulation DJA-R.

4. Submitting Departments.

There may be circumstances where the Submitting Departments share the responsibility for compliance with applicable regulations for purchases initiated from their departments. Submitting Departments, with the advance approval of the Procurement Services Department, may handling the procurement of certain Goods or Other Services with their own staff after agreeing in advance with the Procurement Services Department and tAW e(par)7.(ow)d9-0 Td( )Ti0.004 Tc -0.002 Tw sh

B. Advance Planning

2. Construction and Repair

a. Formal Bidding Procedures: Formal bidding procedures prescribed in N.C.G.S. §143-129must be followed for construction or repair work that requires an estimated expenditure of $500,000 or more (unless one of the exceptions stated in N.C.G.S.§143-129is applicable).

b. Informal bidding procedures: Informal bidding procedures are prescribed in N.C.G.S. §143-131

Exhibit 1

Summary of Applicable Competitive Procurement Methods

Column 1	Column 2	Column 3	Column 4
Category	**Responsible Department**	**Competitive Procurement Procedure**	**MWSBE Efforts -Pre award**
1. Construction &			

6. Goods < $90,000 ≥ $30,000 not on state contract	Procurement Services Department	Informal quotes as required by state law; specific competitive procedure determined by Procurement Services Department; Submitting Department permitted to obtain written (fax and e-mail permitted) or telephone quotes communicated to the Procurement Services Department on the appropriate quote forms; if formal procedures are utilized performed by Procurement Services Department.	Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.
7. Goods < $30,000 not on state contract	Procurement Services Department	Competitive procedures are not required; quotes are recommended.	If ≥ $5,000 then same procedures as row above; otherwise, no requirements; rotating awards to multiple vendors, including M/W/SBE vendors, is recommended.
8. Goods State Contract ≥ $5,000	Procurement Services Department	Additional competitive procedures are not required.	No requirements; rotating awards to multiple state contract vendors to the extent available, including M/W/SBE vendors, is recommended.
9. Goods State Contract < $5,000	Procurement Services Department	Additional competitive procedures are not required.	No requirements; rotating awards to multiple state contract vendors to the extent available, including M/W/SBE vendors, is recommended.
10. Goods P-card Purchases	Procurement Services Department & Submitting Departments	Competitive procedures are not required.	No requirements; use of one or more of the M/W/SBE databases, rotating awards to multiple vendors, including M/W/SBE vendors, is recommended.

Exhibit 2

Waiver of Competitive Procurement Procedures

(Not applicable to Construction & Repair and Goods Required by State Law to be Formally Bid)

1. Each request must be in writing

2. Justification must be presented by requisitioning School/Department

Conditions permitting waiver include, but are not limited to, the following:

1. When performance or price competition are not available;

2. When a needed product is available from only one source of supply;

3. When competition has been solicited but no satisfactory bid has been received;

4. When standardization or compatibility is the overriding consideration;

5. When a donation predicates the source of supply;

6. When specialized personal or professional services are required (such as accounting, appraisal, financial, legal, technology, educational trainers);

7. When a particular medical product, service, or prosthetic appliance is needed;

8. When a product is needed for the blind or severely disabled and there are overriding considerations for its use;

9. When additional products or services are needed to complete an ongoing job or task (same vendor source);

10. When products are bought for "over-the-counter" resale (and not for use in administering any office, school, or department of the school system);

11. Whenol

Appendix 1: Federal Fund Requirements

I. Purpose

The purpose of this regulation 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.

II. Regulation

A. Application of Regulation. This regulation 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 fu

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.

III. 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 the 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.

J. **Cost Estimate.** Services and construction/repair 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 a0Pd(p)Tjs0.004 Tc]TJ2.028 Tw d[(m)-3 (ea)e re

IV. 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:

1. 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.
2. To the extent practicable, purchases must be distributed among qualified suppliers.

B. Service Contracts (except for A/E professional services) **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:

1. 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).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids.
4. 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).
5. Award the contract to the lowest responsive, responsible bidder.

C. 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:

1. 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).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and

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F. Construction and repair contracts <u>costing less than $10,000</u> shall be procured using the Uniform Guidance "micro-purchase" procedure (2 C.F.R. § 200.320(a)) as follows:

1. 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.
2. To the extent practicable, contracts must be distributed among qualified suppliers.

F. Construction and repair contracts <u>costing $10,00 up to $250,000</u> shall be procured using the Uniform Guidance "small purchase" procedure (2 C.F.R. § 200.320(b)) as follows:

1. 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).
2. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
3. Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
4. Award the contract on a fixed-price or not-to-exceed basis.
5. Award the contract to the lowest responsive, responsible bidder. Governing board approval is not required.

G. Construction and repair contracts <u>costing $250,000 up to $500,000</u> shall be procured using the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) as follows:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. Publically advertise the bid solicitation for a period of time sufficient to give designerbl(as001 Tc 0.073 Tw 0.45 0 Td[(C)s)4 (i)6 (g)10 (ner)7 ibl designerifidd

H. Construction and repair contracts <u>costing $500,000 and above</u> 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:

1. Cost or price analysis is required prior to soliciting bids (this cost estimate should be provided by the project designer).
2. Complete specifications must be made available to all bidders.
3. 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."
4. Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
5. 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.
6. 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.
7. Award the contract on a firm fixed-price basis.
8. Award the contract to the lowest responsive, responsible bidder. Governing board approval is required and cannot be delegated. The governing board may reject and all bids only for "sound documented reasons."

I. Construction or repair contracts involving a building <u>costing $300,000 and above</u> must comply with the following additional requirements under state law:

1. Formal HUB (historically underutilized business) participation required under G.S. 143-m).

J. Contracts for

10. Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated. Governing board approval is not required.

V. 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 that awarded the federal funds:

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

Purchasing/Contracting Using Federal Funds (Appendix 2)

Summary of Applicable Competitive Procurement Methods Using Federal Funds

Column 1	Column 2	Column 3	Column 4
Category	**Responsible Department**	**Competitive Procurement Procedure**	**MWSBE Efforts – Pre award**
1. Federal Funded Construction and Repair >$250,000	Building Services	Compliance with Uniform Guidance Requirements. Formal bids required.	Compliance with Uniform Guidance and other requirements including NCGS 143-64.31regarding M/WBEs; notification of available M/W/SBE vendors using one or more of the available databases; bidders required to complete good faith efforts to include M/WBE subcontractors in accordance with state law. SBE subcontractor projects goals where appropriate.
2. Federal Funded Construction and Repair <$250,000	Building Services	Compliance with Uniform Guidance Requirements. Informal Bids Required.	Compliance with Uniform Guidance and other requirements including NCGS 143-64.31regarding M/WBEs; notification of available M/W/SBE vendors using one or more of the available databases; bidders required to complete good faith efforts to include M/WBE subcontractors in accordance with state law. SBE subcontractor projects goals where appropriate.

3. Federal Funded Surveying, Architecture, & Engineering	Building Services	Competitive procedures in compliance with the Federal Uniform Guidance Requirements.	Compliance with Uniform Guidance and other requirements including NCGS 143-64.31regarding

6. Federal Funded Goods <$10,000	Procurement Services Department	Additional competitive procedures are not required.	No requirements; rotating awards to multiple state contract vendors to the extent available, including M/W/SBE vendors, is recommended.
7.Federal Funded Other Services (Except for Surveying, Architecture, & Engineering) > $250,000	Procurement Services Department	Formal Bids Required in accordance to Uniform Guidance Requirements.	Compliance with Uniform Guidance Requirements. Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.
8. Federal Funding Other Services (Except for Surveying, Architecture, & Engineering) >$10,000 <$250,000	Procurement Services Department	Federal Uniform Guidance Requirements to be followed. Informal quotes Required.	Compliance with Uniform Guidance Requirements. Notification of available M/W/SBE vendors using one or more of the databases referenced in Section 4 of Regulation DJA-R.
9. Federal Funds for Other Services (Except for Surveying, Architecture, & Engineering) <$10,000	Procurement Services Department	Competitive procedures are not required.	No requirements; rotating awards to multiple vendors, including M/WS/BE vendors, is recommended.