

**PWCS Lead Agency Procurement Self-Certification
September 2017**

Uniform Grant Guidance 200.324	Procurement Policy
<p>200.317 Procurements By States When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with section 200.322 Procurement Of Recovered Materials and ensure that every purchase order or other contract includes any clauses required by section 200.326 Contract Provisions. All other non-Federal entities, including subrecipients of a state, will follow sections 200.318 General Procurement Standards through 200.326 Contract Provisions.</p>	<p>Individual policies referenced below constitute self-certification by Prince William County Schools (PWCS)</p>
<p>200.318 General Procurement Standards (a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.</p>	<p>PWCS Regulation 470-1, Purchasing</p>
<p>(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>(c) (2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.</p>	<p>n/a</p>
<p>200.318 (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>

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<p>200.318 (e) To foster greater economy and efficiency, and in accordance with effort-s-to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>200.318 (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>200.318 (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants PWCS Regulation 890-1, New Construction and Modifications to Buildings, Equipment, and Grounds</p>
<p>200.318 (h) The non-Federal entity must award contracts 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.</p>	<p>PWCS Regulation 470-1, Purchasing (Section II)</p>
<p>(j) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:</p> <p>(j) (1) The actual cost of materials; and</p> <p>(j) (2) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.</p> <p>Since this formula generates an open-ended contract price, a time-and materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and</p>	<p>PWCS Regulation 470-1, Purchasing (Section X and XII)</p>

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<p>claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.</p>	
<p>(c) (l)The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee; officer, or agent must 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. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.</p>	<p>PWCS Regulation 470-1, Purchasing, (Section XIV)</p>
<p>200.319 Competition (a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to: (a) (1) Placing unreasonable requirements on firms in order for them to qualify to do business; (a) (2) Requiring unnecessary experience and excessive bonding; (a) (3) Noncompetitive pricing practices between firms or between affiliated companies; (a) (4) Noncompetitive contracts to consultants that are on retainer contracts;</p>	<p>PWCS Regulation 470-1, Purchasing (Section IV, XIII and XIV)</p>

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<p>(a) (5) Organizational conflicts of interest; (a) (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and</p>	
<p>(a) (7) Any arbitrary action in the procurement process. (b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.</p>	<p>The Virginia Public Procurement Act does not give enabling authority for geographical preferences. See Code of Virginia 2.2-4303.1C</p>
<p>(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:</p>	<p>PWCS Regulation 470-1, Purchasing (Section IV) PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>(c) (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and</p>	<p>PWCS Regulation 470-1, Purchasing (Section IV)</p>
<p>(c) (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.</p>	<p>PWCS Regulation 470-1, Purchasing (Section IV)</p>
<p>(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.</p>	<p>PWCS Regulation 470-1, Purchasing Code of Virginia 2.2-4317, Prequalification generally</p>
<p>200.318 (d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>

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<p>consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.</p>	
<p>200.318 (e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>200.318 (f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>200.318 (g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.</p> <p>200.318 (h) The non-Federal entity must award contracts 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.</p>	<p>PWCS Regulation 890-1, New Construction and Modifications to Buildings, Equipment, and Grounds</p> <p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>200.320 Methods Of Procurement To Be Followed</p> <p>The non-Federal entity must use one of the following methods of procurement.</p>	<p>PWCS Regulation 470-1, Purchasing (Section IV)</p>
<p>(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,500 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.</p>	<p>PWCS Regulation 333-1, Seeking, Securing and Managing Public and Private Grants</p>
<p>(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.</p>	<p>PWCS Regulation 470-1, Purchasing (Section IV)</p>
<p>(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited</p>	<p>PWCS Regulation 470-1, Purchasing (Section IV)</p>

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<p>and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section below apply.</p> <p>(1) In order for sealed bidding to be feasible, the following conditions should be present:</p> <p>(i) A complete, adequate, and realistic specification or purchase description is available;</p> <p>(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and</p>	
<p>(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.</p> <p>(2) If sealed bids are used, the following requirements apply:</p> <p>(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;</p> <p>(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;</p> <p>(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;</p> <p>(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and</p>	<p>PWCS Regulation 470-1, Purchasing (Section IV)</p>

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<p>(v) Any oral bids may be rejected if there is a sound documented reason.</p> <p>(d) Procurement by competitive proposals</p>	
<p>Uniform Grant Guidance</p>	<p>Procurement Policy</p>
<p>Clean Air Act (42 U.S.C. 7401- 7671g.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671g) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA), as applicable.</p>	<p>2 CFR 200.326</p>
<p>Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986Comp., p. 189) and 12689 (3 CFR part 1989Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549, as applicable</p>	
<p>Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any</p>	

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<p>agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by <u>31 U.S.C. 1352</u>. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award, as applicable.</p>	
<p>Procurement of Recovered Materials (2 CFR 200.322) – A <u>non-Federal entity</u> that is a <u>state</u> agency or agency of a political subdivision of a <u>state</u> and its <u>contractors</u> must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at <u>40 CFR part 247</u> that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines, as applicable.</p>	