

SB 544
CHANGES TO PUBLIC ONTRACT CODE 20111

Renumbered to add the following subsection:

(c) Procurement bid solicitations and awards made by a school district approved to operate at least one federal nonprofit child nutrition program for purchases in support of those programs shall be consistent with the federal procurement standards in Sections 200.318 to 200.326, inclusive, of Part 200 of Title 2 of the Code of Federal Regulations. These awards shall be let to the most responsive and responsible party. The price shall be the primary consideration, but not the only determining factor.

Code of Federal Regulations

Title 2 - Grants and Agreements

Volume: 1

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Title: Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards
Context: Title 2 - Grants and Agreements. Subtitle A - Office of Management and Budget Guidance for Grants and Agreements. CHAPTER II - OFFICE OF MANAGEMENT AND BUDGET GUIDANCE. - Reserved. PART 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS.

Pt. 200, App. II

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in

the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) 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. 7401-7671q) 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).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) 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 governmentwide Excluded Parties List System 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 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM 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.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more 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 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 31 U.S.C. 1352. 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.

(K) See § 200.322 Procurement of recovered materials.

VISTA UNIFIED SCHOOL DISTRICT

ADMINISTRATIVE REGULATION NO. 3311

Business and Non-instructional Operations

BIDS/PROCUREMENT

PROCUREMENT PLAN FOR ALL DISTRICT PROGRAMS TO INCLUDE FEDERALLY FUNDED PROGRAMS (to include Child Nutrition Services, Special Education IDEA, Title Programs)

Procurement is the multistep process for acquiring the best possible goods and services at the lowest possible price. Vista Unified School District (District) will purchase items for use in the School Nutrition Programs (SNP) and in Federally funded programs in compliance with 2 CFR Part 200, State and District regulations, using the procedures outlined as follows and in the attached chart of procedures.

The primary purpose of this procurement plan is to ensure that open and free competition exists to the maximum extent possible. The Board believes that competition helps ensure that goods, equipment, and services will be obtained at the lowest possible cost. The procurement procedures used by the District will not unduly restrict or eliminate competition.

When making procurement decisions, the District will follow the subsequent four fundamentals principals:

1. Follow the Buy American provision.
2. Follow the more restrictive bid threshold, whether it be the federal, state or local threshold.
3. Ensure that full and open competition exists to the maximum extent possible.
4. Award contracts to the most responsible and responsive bidders.

Prior to beginning the procurement procedures outlined in this document, the District will:

1. Complete a needs assessment and an accurate forecast – to the best ability of the District.
2. Determine that the item(s) are necessary and does not duplicate items and/or bid(s) the District already has in place.
3. With equipment, the District will determine the most economical approach – lease vs. buy – prior to preparing a solicitation.
4. Determine the bid threshold in order to determine what method of procurement will be used for the goods or services
5. Develop specifications for products needed including details such as product descriptions and requirements for goods or services. Descriptions must not unduly restrict competition. The description must describe the minimum essential characteristics and standards the product must conform to.
6. Developing evaluation criteria if using a Request for Proposal (RFP) prior to releasing the bid document

7. All procurements will be handled by the Purchasing Department. No other Department is authorized to procure materials, goods, and services unless designated by the Assistant Superintendent, Business Services or designee.

PROCUREMENT OPTIONS:

Micro Purchase Procedures

Micro purchase process will be used to purchase goods and services that are needed on an emergency basis, for special or last minute catering events or for items needed only occasionally.

Micro purchasing procedures are used under the following conditions:

- a. The aggregate value of the single transaction is under \$3500.
- b. The District considers the price to be reasonable.
- c. The determination that the price is reasonable is documented and included in the procurement file (This file is located within the Purchasing Department). Prices found on the internet may be used to verify that the price the District is paying is reasonable.
- d. Micro purchases are equally distributed among qualified suppliers. A qualified supplier for items picked up by District personnel at the supplier location will be defined as a supplier who will accept a District purchase order and be within five miles of the District headquarters. For emergency equipment repair, repair work will be distributed amongst those suppliers who are familiar with the brand of equipment the District uses and is authorized to work on that brand by the manufacturer and can respond within 24 hours.

Small Purchase Procedures

Small purchase procedures will be used to purchase goods, equipment, office supplies, and services where the aggregate cost is less than \$88,300 and greater than \$3,500.

When small purchase procedures are used, the following conditions must be met:

- The goods, equipment, or services to be purchased will be adequately and consistently described for each prospective supplier so that each one can provide price quotes on the same merchandise or service. These specifications may be either verbal or written. It is not necessary to send price quotes in writing, but it is the preferred method. Both written and verbal methods must be documented.
- Specifications/food descriptions must be sent by fax or e-mail or communicated by telephone or in person to an adequate number of suppliers. A list of potential suppliers will be developed, maintained, and added to throughout the course of the school year. During the summer, the District will solicit potential suppliers to determine their interest level in being added to the

small purchase procurement list. The District will network with other appropriate personnel to obtain supplier contact information, as well as to obtain feedback regarding service and product quality. The list developed will be used to contact interested suppliers throughout the school year. Suppliers will be added to this list upon request. The list will be maintained by the Purchasing Department.

- Responses from suppliers may be in either the written or verbal form. Verbal quotes must be documented. The District's purchase documentation form and /or supplier contract form contained herein will be used for this purpose.
- Price quotation responses will be retained by the District in the Purchasing Department with other program documentation and records for a period of three years after the end of the fiscal year to which they pertain or until the findings of audits are resolved. The District will utilize its purchase documentation form and/or supplier contract form for this purpose.

Competitive Formal Procurement

Competitive Formal procurement procedures – Information for Bid (IFB) or Request for Proposal (RFP) - will be used to purchase goods, equipment, and services where the aggregate cost is more than \$88,300.

When competitive formal procurement procedures are used, the following conditions, stipulations, and terms must be met:

- The bid must be free of actions that might inhibit competition and allow the supplier adequate time to complete the bid.
- The bid must be advertised and include the general nature of the goods or services to be procured; method of procurement that will be used; how the supplier can obtain more information; and the due date for the responses to the bid. The bid must be publically advertised one week a part in a newspaper of general circulation per California PCC section 20112. The bid may also be advertised on the District website.
- Bids will be solicited from an adequate number of known suppliers in sufficient time prior to the date set for the opening of the bids. Bids will be mailed or emailed to those suppliers who have previously requested to do business with the District.
- The date that all addenda, changes, or answers to questions will be posted regarding the bid must be included in the original bid document as well as the website where the answers will be posted.
- The invitations for bid will clearly define the items or services needed in order for the bidders to be able to properly respond. This includes product

specifications and general purchasing conditions.

- Suppliers wishing to bid on the contract may not assist the District in the development of the bid or the specifications for product/goods. This includes offering the services free of charge for the development of the specifications.
- The bid document must contain the following written requirement: “All rebates, discounts, and other applicable credits must be returned to the District”.
- Any and all bids may be rejected when there is sound documented reasons rejecting is in the best interest of the District.
- Bid award will be based on low bid after verifying that the supplier with the low bid is responsive and responsible, meets the product specifications, and after performing a cost analysis.
- When using a Request for Proposal (RFP) in compliance with federal and state guidelines, the evaluation criteria must be included in the bid package and price must be the highest weighted factor. In addition to price, the evaluation criteria may include categories such as: Flavor & Quality, Past Performance, Minimums, Delivery Days and Times. A description of the Scoring System must be included in the RFP which will explain the scoring criteria for each category.
- During the evaluation phase, the evaluation criteria, other than price, must first be evaluated prior to evaluating price. There should be a committee of at least 2 persons who did not write the bid, evaluate the technical criteria of the RFP. The RFP is to be awarded to the most responsive, responsible supplier who submitted the lowest price as determined by the evaluation criteria.
- Responses from suppliers must be in writing; signed by the authorized authority to submit the bid, be returned in a sealed envelope on or before the date and time specified and to the place specified in the bid documents.
- Bids not received on time will be returned to the bidder unopened.
- Bid proposals will be retained by the District with other program documentation and records for a period of three years after the end of the fiscal year to which they pertain or until the findings of audits are resolved.
- The recommendation for bid award must be submitted to District’s Board for the award of the bid.
- When the District chooses, purchases may be made through a cooperative agreement or piggybacking with other school districts when all legal procurement procedures are followed as required.

- For cooperative purchasing, District must maintain on file for the current year plus three additional years, a copy of the bid; proof of advertising; and bid award documents from the awarding District's Board.
- For piggybacking, District must obtain permission from the District awarding the bid and the supplier awarded the bid. A copy of the bid, including the piggyback clause, proof of advertising, and proof of award from the awarding District's Board must be kept on file for the current year plus three additional years.

Non-Competitive Proposal (Sole Source):

These types of proposals will be used only when procurement is not feasible under the small purchase procedures, sealed bid (formal advertising), or competitive proposals. The decision to use noncompetitive proposal will be justified in writing, approved by CDE, and be available for audit and review.

Circumstances under which procurement may be conducted by noncompetitive proposal will be limited to one of the following:

- The merchandise or service is available only from a single source. The Purchasing Department will provide documentation that the merchandise or service is not available from any other source.
- An emergency exists, and the urgency for the requirement will not permit the delay involved with sealed bids (formal advertising) or competitive proposal. Emergency conditions must be documented by the requesting Department.
- After solicitation from a number of sources, competition is found to be lacking.

CHART OF PROCEDURES

The District will purchase the following products or group of products and services as per the stated purchase period using the identified procurement method.

Price quote time frame period is defined as the time frame for which bids or quotes are obtained and awarded.

Product	Price Quote Time Frame	Procurement Method Used
Milk	Annually- with 2 year renewal option	Cooperative Competitive Sealed Bids (RFP)
Bread	Annually – with two year renewal option	Cooperative Competitive Sealed Bids (RFP)
Staples	Annually – with two year renewal option	Cooperative Competitive Sealed Bids (RFP)
Fresh Produce	Annually – with two year renewal option	Cooperative Competitive Sealed Bids (RFP)
Frozen Foods	Annually- with two year renewal options	Cooperative Competitive Sealed Bids (RFP)
Pest Control	Annually- with two year renewal option	Small Purchase Procedure
Processed Commodities	Annually- with two year renewal option	Cooperative Competitive Sealed Bids
Paper products (disposables)	Annually – with two year renewal option	Cooperative Competitive Sealed Bid (RFP)
Snack Items	Annually- with three year renewal option	Cooperative Competitive Sealed Bid (RFP)
Armored Services	Annually – with four year renewal option	Small Purchase Procedure
Hood Cleaning and Fire Inspection	Annually- with two year renewal option	Small Purchase Procedure
Chemicals	Annually - with two year renewal option	Small Purchase Procedure
Small equipment	As Needed	Small Purchase Procedure
Large equipment	As Needed	Small Purchase Procedure or Competitive Sealed Bids
Vehicle Washing and Waxing	Annually- with two year renewal option	Small Purchase Procedure
Office supplies	As needed	Small purchase procedure Or cooperative bid
Grease Interceptor Pumping	Annually- with two year renewal option	Small Purchase Procedure
Supplies/Catering	As needed	Micro purchase
Laundry	Annually- with two year	Small Purchase Procedure

	renewal option	
Services	Annually—with two year renewal option	Dependent upon level of Service to be provided
Public Works	As Needed	Dependent upon dollar amount. Any amount over \$1,000 will follow Labor Code Requirements. See Purchasing Overview Chart as Exhibit 1.
Materials and Equipment not part of Child Nutrition Services, but Federally funded	As needed or through Cooperative Competitive Sealed Bids such as NCEPC or appropriate supplier.	Dependent upon dollar amount of Transaction.

Advertised Bids

Whenever expenditures exceed the amount specified in Public Contract Code Section 20111 for the purchase of equipment, supplies, and certain services, the Chief Business Officer or designee shall call for bids by advertising in a local newspaper at least once a week for two weeks. Unless otherwise authorized by law, contracts shall be let to the lowest responsive bidder who shall give such security as the Board of Trustees requires, or else all bids shall be rejected. The Board reserves the right to reject all bids for any reason.

The District has adopted the California Uniform Public Construction Cost Accounting Act procedures under Public Contract Code Section 22000 ET SEQ. (“CUPCCAA”). Accordingly, the acquisition of maintenance work and public projects, as both are defined under Public Contract Code Section 22002, shall comply with CUPCCAA’s bidding procedures.

1. Formal bids for public projects and maintenance projects:

Public Projects and maintenance projects involving expenditures of more than \$175,000, the current “formal bid limit” pursuant to CUPCCAA, shall be advertised and let by formal bidding procedures as required. Without further action, if the State of California revises this formal bid limit, the District shall comply with that new formal limit.

2. Informal bids for public projects and maintenance projects:

Public projects and maintenance projects involving expenditures of \$45,000 to \$175,000, the current “informal bid range” pursuant to CUPCCAA, shall be let by informal bidding procedures as required. Without further action if the State of California revises this informal bid range, the District shall comply with that new informal limit.

3. Public projects and maintenance projects less than the informal bid range:

Public projects and maintenance projects involving expenditures of less than \$45,000 may be let by negotiated contract, by purchase order, or by force account. Without further action, if the State of California revises this minimum threshold, the District shall comply with that new minimum threshold. The District shall seek quotes, when feasible, for public projects and maintenance work involving an expenditure of \$45,000 or less.

4. Discretion to reject bids:

In accordance with Public Contract Code section 22038, the District may reject any bids presented, if, prior to rejecting all bids and declaring that the project can be more economically performed by District employees, the District furnishes a written notice to an apparent low bidder. The notice shall inform the bidder of the District's intention to reject the bid and shall be mailed at least two business days prior to the hearing at which the District intends to reject the bid. If after the first invitation of bids, all bids are rejected, after reevaluating its cost estimates of the project, the District may do either of the following:

- (1) Abandon the project or re-advertise for bids in the manner described by CUPCCAA.
- (2) By passage of a resolution by four-fifths vote of the governing board declaring that the project can be performed more economically by District employees, may have the project done by force account without further complying with this article.

When letting a contract for the procurement and/or maintenance of electronic data processing systems and supporting software, the Board may contract with any one of the three lowest responsible bidders.

The Board shall secure bids for any transportation service expenditure of more than \$10,000 when contemplating that such a contract may be made with a person or corporation other than a common carrier, municipally-owned transit system, or a parent/guardian of students who are to be transported. The Board may let this contract to other than the lowest bidder.

The Board shall secure competitive bids for personal service contracts for non-instructional services when the justification for outsourcing personal services is based on cost savings as outlined in Education Code 45103.1.

Instructions and Procedures for Advertised Bids

Bid instructions and specifications shall include the following requirements and information:

1. All bidders, including bidders for printing contracts, may be requested to specify the minimum, if not exact, percentage of recycled product in the products offered, and both the post consumer and secondary waste content.
2. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security:
 - a. Cash
 - b. Cashier's Check
 - c. Certified Check
 - d. Bidder's Bond executed by an admitted surety insurer.
3. The security of unsuccessful bidders shall be returned in a reasonable period of time in no event any later than 60 days after the bid is awarded.
4. Under no condition shall bids be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time.
5. When two or more identical bids are received, the Board may determine by lot which bid shall be accepted.
6. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.
7. After being opened, all advertised bids shall be made available for review by all interested parties in the Business Services or Purchasing Departments. Bids will not be removed by interested parties from the department maintaining the records.

Supplementary textbooks, library books, periodicals, educational films, audiovisual materials, text materials, workbooks, and instructional computer software packages may be purchased without advertised bidding.

The district may, upon a case-by-case determination of the Board, purchase, lease, or contract for equipment and supplies through a public corporation without advertised bids to the extent permitted by state law.

Perishable commodities such as foodstuffs can be purchased through bid or on the open market, depending on district preference. In its purchases, the district shall give preference to products grown, manufactured, or produced in California and to foods grown or processed in the United States.

Professional services, personal services, and advisory services as outlined in Government Code 53060 are exempt from competitive bids unless the contracts meet the criteria outlined in Education Code 45103.1. If the justification to provide the services is based on cost savings, then the district will be required to competitively bid for the services regardless of the contract amount.

Prequalification

For any contract for which bids are legally required, the Board may require that each prospective bidder complete and submit a standardized questionnaire and financial statement. For this purpose, the Chief Business Officer or the Director of Purchasing shall supply a form, which includes a complete statement of the bidder's financial ability and experience in performing public works. The questionnaire and financial statement shall be verified as prescribed by law. The questionnaires and financial statements shall not be public records and shall not be open to public inspection.

The Chief Business Officer or the Director of Purchasing shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid.

The Chief Business Officer or the Director of Purchasing shall furnish each approved qualified bidder with a standardized bid/proposal form. Bids not presented on the standard form shall be disregarded.

Regulations Relative to the Bidding Activity

1. The Purchasing Department shall periodically estimate requirements of standard items or classes of items and make quantity purchases, thereby effecting economics.
2. Bid instructions and specifications should be clear and complete, setting forth all necessary conditions conducive to competitive bidding.
3. The Purchasing Department shall seek bids from those sources able to offer the best prices, consistent with quality, delivery, and service.
4. Competitive Pricing/Bidding:

Whenever practical, competitive quotes/bids from qualified suppliers handling the same or similar product will be secured. The Director of Purchasing may choose to bid any item that lends itself to competitive bidding/pricing.

Individual sites/departments may, for their own information, wish to secure inquiry pricing information on items they intend to purchase; however, it must be understood that these price quotations may not be usable at the time of purchase

due to time lapse, quantity changes, or incomplete information. Pricing quotations obtained by individual sites and departments are not binding on the district or the purchasing department. Requisitioners should allow sufficient time for the Purchasing staff to obtain quotes/bids, place the order, and receive shipment.

Competitive pricing/bids will be secured in accordance with the following guidelines:

Supplies, Equipment, and Services:

- | | |
|--------------|--|
| \$ - \$5,000 | Pricing/quotations will not normally be solicited unless the items are of a price volatile nature, such as office supplies, software, and others. |
| \$ - \$3,500 | Exception: Federally Funded Programs, purchasing staff will solicit at least 3 quotes in writing. |
| \$5,000 – up | The Purchasing staff will solicit at least three quotes in writing. |
| \$88,300 | Formal bidding including advertising and Board award of contracts as required under Public Contract Code 20111. Projects cannot be split into smaller orders to avoid bidding (Public Contract Code 20116) this amount is annually updated by the Superintendent of Public Instruction on January 1 of each year. Without further action, if the State of California revises the formal bid limit, the District shall comply with that new formal bid limit. |

5. Legal formal bids are required for:

Public Works/Services (each Public Works project/services) over \$45,000 (California Uniform Public Construction Cost Accounting Act procedures under Public Contract Code Section 22000 ET SEQ. (“CUPCAA”).

Supplies, equipment, and materials legal limit as prescribed by Public Contract Code 20111.

Formal Bidding Procedures

Formal bids will be requested in all cases required by law and will be accomplished as follows:

1. A notice inviting sealed bids shall be published at least twice in a newspaper of general circulation in the District and shall contain the time and place of opening of bids. Bids shall also be sought from those sources able to offer the best prices, consistent with quality, delivery, and service.

2. Bids will be opened by the Chief Business Officer or designee in advance of Board meetings to permit time for tabulating and evaluating the bids to make recommendations for Board acceptance, at least five days prior to the meeting date. The bid results will be provided to all companies participating in bid process within three working days after bids are opened. Bid documents will not be removed from either the Business Services or Purchasing Departments.
3. Bids will be received at the prescribed time and place indicated in the Notice to Bidders. No bid may be accepted after said advertised time unless bid opening time and place are changed through an authorized issued addendum. All authorized issued addenda will be issued no later than 72 hours prior to advertise bid opening date.
4. Bids will then be returned to the designated office at the prescribed time and place indicated on the Notice to Bidders for opening and evaluation. Review of submitted bids by interested parties will be allowed after issuance of bid results. Appointments will be made with the appropriate department, to review the documents.
5. Construction bids are advertised and opened in the same manner. However, the construction contract documents approved by the District's legal counsel are the bid documents used for all construction requiring bids.
6. **Formal Bid Review/Protest Procedure**
 - A. Any actual or prospective bidder may protest a bid award if he/she believes the award is not in compliance with the law, does not follow bid procedures, or does not meet bid specifications. A protest must be filed with the Assistant Superintendent of Business Services. Such protests must be made in writing and received by the Assistant Superintendent of Business Services within five working days of bid award date and shall include all documents supporting or justifying the protest. The protesting party must mail or deliver copies of the protest to the District. A bidder's failure to file the protest documents in a timely manner shall constitute a waiver of his/her right to protest the award of the contract.
 - B. In the event of a timely protest, the District shall not proceed further with the solicitation or award of the contract until the protest is resolved.
 - C. The Assistant Superintendent of Business Services shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Assistant Superintendent of Business Services may also convene a meeting with the bidder in order to attempt to resolve the problem.
 - D. If the bidder is not satisfied with the Assistant Superintendent of Business Services' decision, the bidder may appeal to the District's Board. The District shall provide notice to the bidder the date and time for the Board consideration of

the protest at least three business days before the Board meeting. The Board's decision shall be final.

E. A Formal protest must be sworn and contain:

1. A specific identification of the statutory or regulatory provision that the protesting party alleges has been violated.
2. A specific description of each action by the District that the protesting party alleges to be a violation of the statutory or regulatory provision that the protesting party has identified.
3. A precise statement of the relevant facts.
4. A statement of any issues of law or fact that the protesting party contends must be resolved.
5. A statement of the argument and authorities that the protesting party offers in support of the protest.
6. A statement that copies of the protest have been mailed or delivered to the Assistant Superintendent of Business and all other identifiable interested parties.

F. The District may settle and resolve the dispute over the solicitation or award of a contract at any time before the matter is submitted on appeal. The District may solicit written responses to the protest from other interested parties.

G. If the protest is not resolved by mutual agreement, the District shall issue a written determination that resolves the protest.

1. If the District determines that no violation of statutory or regulatory provisions has occurred, then the District shall inform the protesting party and other interested parties by letter that sets forth the reasons for the determination.
2. If the District determines that a violation of any statutory or regulatory provisions has occurred in a situation in which a contract has not been awarded, then the District shall inform the protesting party and other interested parties of that determination by letter that details the reasons for the determination and the appropriate remedy.
3. If the District determines that a violation of any statutory or regulatory provisions has occurred in a situation in which a contract has been awarded, then the District shall inform the protesting party and other interested parties of that determination by letter that details the reasons for the determination. This letter may include an order that declares the contract void.

- H. The District shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the District's record retention schedule.

Brand Name or equivalents

- A. When a brand name and code is used in the product description, the description will always include an "or equal" clause
- B. The District will provide a copy of the specified brand/code upon request so suppliers may verify the product they are bidding is actually an equal. It is the supplier's responsibility to request the information.
- C. Suppliers bidding an item as "equal" product may be required to furnish to District a product specification sheet and sample case for testing and verification as an "or equal" product.

Alternative Bid Procedures for Technological Supplies and Equipment

Upon a finding by the Board that a particular procurement qualifies for the alternative procedure, the District may acquire computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus through competitive negotiation. This procedure shall not apply to contracts for construction or for the procurement of any product that is available in substantial quantities to the general public. (Public Contract Code 20118.2)

The competitive negotiation shall include, but not be limited to, the following requirements: (Public Contract Code 20118.1)

1. The Chief Business Officer or designee shall prepare a request for proposals (RFP) that shall be submitted to an adequate number of qualified sources, as determined by the District, to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
3. The District shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the RFP is received.
4. The RFP shall identify all significant evaluation factors, including price, and their relative importance.
5. The District shall provide reasonable procedures for the technical evaluation of the RFPs received, the identification of qualified sources, and the selection for the award of the contract.

6. An award shall be made to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the District with price and all other factors considered.
7. If an award is not made to the bidder whose proposal contains the lowest price, then the District shall make a finding setting forth the basis for the award.
8. The District, at its discretion, may reject all proposals and request new RFPs.

Rights of the Board Concerning Bids

The Board shall reserve the right to reject any and all bids and waive any irregularities or informalities in any bid or in the bidding.

The Board also reserves the right to enter into a continuing contract with an accepted supplier as per Education Code 17596 which states, "Continuing contracts for work to be done, services to be performed, or for any apparatus or equipment to be furnished, sold, built, leased, installed, or repaired for the District, or for materials or supplies to be furnished or sold to the District may be made with an accepted supplier or lessor as follows: for work or service, or for apparatus or equipment, not to exceed five years; for materials or supplies not to exceed three years."

Bids Not Required

Without advertising for bids and upon a determination that it is in the best interest of the District, the Board may authorize, by contract, lease, requisition, or purchase order, another public corporation or agency to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the District in the manner that the other public corporation or agency is authorized to make the leases or purchases from a supplier ("piggyback"). (Public Contract Code 20118)

Alternatively, if there is an existing contract between a public corporation or agency and a supplier for the lease or purchase of personal property, the District may authorize the lease or purchase of personal property directly from the supplier by contract, lease, requisition, or purchase order and make payment to the supplier under the same terms that are available to the public corporation or agency under the contract. (Public Contract Code 20118)

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

Perishable commodities, such as foodstuffs, needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083)

In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code 20113)

Contract Management

Suppliers will be monitored to ensure compliance with contract requirements. This can include:

1. **PRODUCT INSPECTION:** All items are subject to the inspection by the District. Defective items must be made good by the successful supplier, and unsuitable items may be rejected. Any item found to be defective must be corrected to District's satisfaction prior to payment.
2. **RIGHT TO AUDIT:** For contracts with fixed cost plus delivery fee, District shall audit a minimum of 10 awarded items at a minimum of twice yearly to verify supplier is charging the correct fixed pricing.
3. **PRICING DISCREPANCY PENALTY:** District shall verify all pricing on invoices with awarded bid pricing prior to payment. Should supplier overcharge District for any item, the District will request full reimbursement for the overcharge. The second time the supplier is notified of the overcharge, the District will assess an additional two hundred percent (200%) penalty.

Contractor involvement (Conflict of Interest)

Potential suppliers may not be allowed to assist the District in developing the specifications, bid documents or contracts if they will be bidding on the specified item and/or project.

When possible, small and minority businesses, Women's business enterprises and labor surplus area firms maybe given preference if outlined in board policy.

Successful bidders must certify that they practice equal employment opportunity and that they do not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The successful bidder shall take affirmative actions to insure that applicants are employed, and that employees are treated fairly during their employment, without regard to their race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, lay-off, termination; rates of pay or other form of compensation; and selection for training, including apprenticeship.

The District will require the successful bidder to provide proof of having and maintaining during the life of any contract with the District, Public Liability and Property Damage Insurance to protect themselves and the District from all claims for personal injury, including accidental death, as well as from all claims for Property Damage arising from the operations of any contract the District enters into. The minimum amounts of such insurance shall be:

- Bodily Injury and Accidental Death Liability Insurance including auto (both owned and non-owned): Not Less Than \$1,000,000/\$1,000,000 Aggregate
- Property Damage Liability Insurance including auto (both owned and non-owned): Not Less Than \$1,000,000 Aggregate.
- Insurance certificate must name the District as additional insured.
- Certificate to be submitted by successful proposer to the District prior to start of deliveries.

The District will not enter into a contract with any company or individual that has been debarred or suspended.

Suppliers awarded contracts are required to submit a completed Affidavit of Noncollusion, Debarment and Suspension Certificate, Certification of Lobbying, and Disclosure of Lobbying activities (Federal Programs Only). These forms will be included in the proposal package and must be completed prior to commencement of work.

Sole Sourcing

Specifications for contracts for construction, alteration, or repair of school facilities may not limit bidding, either directly or indirectly, to any one specific concern. Specifications designating a specific material, product, thing, or particular brand name shall follow the description with the words "or equal" so that bidders may furnish any equal material, product, thing, or service. (Public Contract Code 3400)

However, specifications for such contracts may designate a product by brand or trade name (sole sourcing) if the Board has made a finding, described in the Invitation for Bids or Request for Proposals (RFP), that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)

1. To conduct a field test or experiment to determine its suitability for future use
2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source
4. To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four-fifths of the Board when issuing the Invitation for Bid or RFP.

Administrative Regulation Reviewed -1st Reading: August 19, 2010
2nd Reading & Adoption: September 9, 2010
Reviewed/Approved: November 30, 2015
Reviewed/Approved: January 4, 2017

SAMPLE MANUALS

Web Links

Due to size of documents, the following are not being printed. These are sample comprehensive procedures manuals that are a good visual of documentation of processes under federal guidelines.

State & Federal Procedures Manual (Bastrop ISD – Texas)

<https://www.bisdtx.org/pdf/BIISD%20EDGAR%20Manual%202015-2016%20Final.pdf>

Federal Guidelines Procedural Manual – WASBO

<https://www.wasbo.com//images/wasbo/documents/6/fedguidelinesproceduralmanual2015.07.01.docx>

Education Department General Administrative Regulations (EDGAR) Requirements for Equipment & Real Property Management

Applicability	Allowable use	Disposition	Record Keeping
<p>Real Property - Non-profit organizations §74.32</p>	<p>§74.32 The Secretary prescribes requirements for recipients concerning the use and disposition of real property acquired in whole or in part under awards. Unless otherwise provided by statute, the minimum requirements provide the following:</p> <p>(a) Title to real property must vest in the recipient subject to the condition that the recipient shall use the real property for the authorized purpose of the project as long as it is needed and shall not encumber the property without approval of the Secretary.</p> <p>(b) The recipient shall obtain written approval by the Secretary for the use of real property in other federally-sponsored projects when the recipient determines that the property is no longer needed for the purpose of the original project. Use in other projects shall be limited to those under federally sponsored projects (i.e., awards) that have purposes consistent with those authorized for support by the Secretary.</p>	<p>§74.32 (c) When the real property is no longer needed as provided in paragraphs (a) and (b) of this section, the recipient shall request disposition instructions from ED or its successor Federal awarding agency. The Secretary observes one or more of the following disposition instructions:</p> <p>(1) The recipient may be permitted to retain title without further obligation to the Federal Government after it compensates the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.</p> <p>(2) The recipient may be directed to sell the property under guidelines provided by the Secretary and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the recipient is authorized or required to sell the property, proper sales procedures must be established that provide for competition to the extent practicable and result in the highest possible return.</p> <p>(3) The recipient may be directed to transfer title to the property to the Federal Government or to an eligible third party. The recipient is entitled to compensation for its attributable percentage of the current fair market value of the property.</p>	<p>§74.53 Retention and access requirements for records.</p> <p>(a) This section establishes requirements for record retention and access to records for awards to recipients. The Secretary does not impose any other record retention or access requirements upon recipients.</p> <p>(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Secretary. The only exceptions are the</p>
<p>Equipment - Non-profit organizations §74.34</p>	<p>§74.34 (a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.</p> <p>(b) The recipient may not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.</p> <p>(c) The recipient shall use the equipment in the project or program for which it was acquired as</p>	<p>§ 74.34 (g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards:</p> <p>(1) For equipment with a current per unit fair market value of \$5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to ED or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment.</p> <p>(2) If the recipient has no need for the equipment, the recipient shall request disposition instructions from the Secretary. The Secretary shall determine whether the equipment can be used to meet ED requirements. If no requirement exists within ED, the availability of the</p>	<p>the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Secretary. The only exceptions are the</p>

Applicability	Allowable use	Disposition	Record Keeping
	<p>long as needed, whether or not the project or program continues to be supported by Federal funds and may not encumber the property without approval of the Secretary. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally sponsored activities, in the following order of priority:</p> <p>(1) Activities sponsored by the Federal awarding agency which funded the original project; and then</p> <p>(2) Activities sponsored by other Federal awarding agencies.</p> <p>(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for other use shall be given to other projects or programs sponsored by the Federal awarding agency that financed the equipment; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal awarding agency. User charges shall be treated as program income.</p> <p>(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the Secretary.</p>	<p>equipment shall be reported to the General Services Administration by the Secretary to determine whether a requirement for the equipment exists in other Federal agencies. The Secretary issues instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures govern:</p> <p>(i) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse ED an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.</p> <p>(ii) If the recipient is instructed to ship the equipment elsewhere, the recipient is reimbursed by ED by an amount which is computed by applying the percentage of the recipient's participation in the cost of the original project or program to the current fair market value of the equipment, plus any reasonable shipping or interim storage costs incurred.</p> <p>(iii) If the recipient is instructed to otherwise dispose of the equipment, the recipient is reimbursed by ED for costs incurred in its disposition.</p> <p>(iv) The Secretary may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when the third party is otherwise eligible under existing statutes. This transfer shall be subject to the following standards:</p> <p>(A) The equipment must be appropriately identified in the award or otherwise made known to the recipient in writing.</p> <p>(B) The Secretary issues disposition instructions within 120 calendar days after receipt of a final inventory. The final inventory must list all equipment acquired with grant funds and federally-owned equipment. If the Secretary does not issue disposition instructions within the 120 calendar day period, the recipient shall apply the standards of this section, as appropriate.</p> <p>(C) When the Secretary exercises the right to take title, the equipment is subject to the provisions for federally-owned equipment.</p>	<p>following:</p> <p>(1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.</p> <p>(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.</p>

Applicability	Allowable use	Disposition	Record Keeping
Direct Grants Part 75	<p>§75.533 Acquisition of real property; construction.</p> <p>No grantee may use its grant for acquisition of real property or for construction unless specifically permitted by the authorizing statute or implementing regulations for the program.</p>		
State Administered Programs Part 76	<p>§76.533 Acquisition of real property; construction.</p> <p>No State or subgrantee may use its grant or subgrant for acquisition of real property or for construction unless specifically permitted by the authorizing statute or implementing regulations for the program.</p>		
Real Property - State and Local Governments Part 80	<p>§ 80.31 Real property.</p> <p>(a) Title. Subject to the obligations and conditions set forth in this section, title to real property acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.</p> <p>(b) Use. Except as otherwise provided by Federal statutes, real property will be used for the originally authorized purposes as long as needed for that purposes, and the grantee or subgrantee shall not dispose of or encumber its title or other interests.</p>	<p>§80.31 (c) Disposition. When real property is no longer needed for the originally authorized purpose, the grantee or subgrantee will request disposition instructions from the awarding agency. The instructions will provide for one of the following alternatives:</p> <p>(1) Retention of title. Retain title after compensating the awarding agency. The amount paid to the awarding agency will be computed by applying the awarding agency's percentage of participation in the cost of the original purchase to the fair market value of the property. However, in those situations where a grantee or subgrantee is disposing of real property acquired with grant funds and acquiring replacement real property under the same program, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.</p> <p>(2) Sale of property. Sell the property and compensate the awarding agency. The amount due to the awarding agency will be calculated by applying the awarding agency's percentage of participation in the cost of the original purchase to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the grant is still active, the net proceeds from sale may be offset against the original cost of the property. When a grantee or subgrantee is directed to sell property, sales procedures shall be followed that provide for competition to the extent practicable and result in the highest possible return.</p> <p>(3) Transfer of title. Transfer title to the awarding agency or to a third-</p>	<p>§80.42 Retention and access requirements for records.</p> <p>(a) Applicability. (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:</p> <p>(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or</p> <p>(ii) Otherwise reasonably considered as pertinent to program regulations or the</p>

Applicability	Allowable use	Disposition	Record Keeping
<p>Equipment - State and local governments</p>	<p>\$80.32 Equipment.</p> <p>(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.</p> <p>(b) States. A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.</p> <p>(c) Use. (1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.</p> <p>(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.</p>	<p>party designated/approved by the awarding agency. The grantee or subgrantee shall be paid an amount calculated by applying the grantee or subgrantee's percentage of participation in the purchase of the real property to the current fair market value of the property.</p> <p>(d) The provisions of paragraph (c) of this section do not apply to disaster assistance under 20 U.S.C. 241-1(b)-(c) and the construction provisions of the Impact Aid Program, 20 U.S.C. 631-647.</p> <p>\$80.32 (e) Disposition. When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:</p> <p>(1) Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.</p> <p>(2) Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.</p> <p>(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions. ...</p> <p>(h) The provisions of paragraphs (c), (d), (e), and (g) of this section do not apply to disaster assistance under 20 U.S.C. 241-1(b)-(c) and the construction provisions of the Impact Aid Program, 20 U.S.C. 631-647.</p>	<p>grant agreement. ...</p> <p>(b) Length of retention period. (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section. ...</p> <p>(c) Starting date of retention period —(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. ...</p> <p>(2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.</p>

Applicability	Allowable use	Disposition	Record Keeping
	<p>(3) Notwithstanding the encouragement in §80.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.</p> <p>(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.</p>		

§ 77.1 Definitions that apply to all Department programs.

Equipment (§74.2) (§80.3) Equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Real property (§74.2) (§80.3) Real property means land, including land improvements, structures and appurtenances thereto, but excludes movable machinery and equipment.

PERKINS INVENTORY MANAGEMENT GUIDELINES

INVENTORY PROCEDURES

The following information explains the policies and procedures governing equipment and non-consumable supplies purchased in whole or in part with Carl D. Perkins funds and state funded grants provided by the California Department of Education

The eligible grant recipient is required to maintain a local inventory of equipment and non-consumable supplies. The local education agency is also responsible for maintaining the equipment/non-consumable supplies and for exercising reasonable care and safe keeping of the items.

If your district is a member of a Perkins Consortium, then your consortium (eligible recipient) is responsible for maintaining an inventory at the consortium level, but it is also strongly encouraged to also maintain an inventory at the district level for reconciliation purposes with the consortium.

I. Definitions

1. **Acquisition Cost**
Acquisition cost of equipment or non-capitalized equipment items purchased means the net invoice price of the units, including any attachments, accessories or auxiliary apparatus necessary to make the equipment usable for the purpose for which it was acquired. Auxiliary charges such as duty or taxes, protective in-transit insurance, freight or installation may be included as part of the acquisition cost if payment of charges is approved by the Division of Career and Technical Education when reimbursement is made for such items. (2 C.F.R. Part 200.2)
2. **Capitalized Equipment**
Includes machinery and other items of tangible property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$5,000 at time of acquisition, or exceeds the capitalization level established by the non-federal entity for financial statement purposes. (2 C.F.R. Part 200.33)
3. **Eligible Recipient**
Eligible recipients include:
 - a. Local Educational Agency or a consortium
 - b. An eligible institution or consortium of eligible institutions eligible under Perkins Act, Section 132. (Perkins Sec.3(14))
4. **Equipment**
For purposes of this document, equipment will collectively refer to both capitalized equipment and non-capitalized equipment unless identified more specifically as capitalized versus non-capitalized.
5. **Federal Interest**
For purposes of 2 C.F.R. 200.329 reporting on real property or when used in

connection with the acquisition or improvement of real property, equipment, or supplies under a federal award, the dollar amount that is the product of the:

- c. Federal share of total project costs; and
- d. Current fair market value of the property or cost of acquiring the property as project costs (2 C.F.R. Part 200.41)

6. **Non-Capitalized Equipment**

Supplies and materials which are not consumable. The acquisition cost is less than the LEA's capitalization policy threshold. This category generally includes the purchase of smaller computer and technology equipment that will not be capitalized.

7. **Supplies and Materials**

Items of an expendable nature that are consumed, worn out, or deteriorated by use or items that lose their identity through fabrication or incorporation into different or more complex units or substances.

8. **State Office**

Department of Education, Division of Career and Technical Education (DCTE).

9. **Subrecipient**

A non-federal entity that receives a subaward from a pass-through entity (State) to carry out part of a Federal program. This is a consortium or local education agency eligible to receive funds under the Perkins Act, Section 131, or a postsecondary institution eligible to receive funds under the Perkins Act, Section 132 (2 C.F.R. Part 200.93)

10. **Useful Life**

The period of time for which an item can be used for the purposes for which it was purchased. Useful life is not defined by a depreciation schedule.

II. **Title**

1. The title to equipment acquired under a Federal award will vest upon acquisition in the subrecipient. That is, equipment becomes the property of the eligible recipient. DCTE may reserve the right to transfer the title to other eligible subrecipients.

III. **Purchasing**

1. The subrecipient is responsible for purchasing equipment, supplies and materials approved by DCTE for use in career and technical education programs. All local and state laws, regulations and procedures must be followed in the purchase of equipment, supplies and materials. (For example, if the subrecipient's policies require formal bids, then formal bids must be obtained.) After the subrecipient has been notified that equipment, supplies and materials have been approved for purchase, such items must be purchased or a signed purchase order should be executed as soon as possible. DCTE may specify a deadline for purchases.
2. The subrecipient must attain three unrelated bids for any supplies or services that exceed the micro-purchase threshold of \$3,000. Bids must be from unrelated companies.

3. Equipment purchased by subrecipients with funds provided by DCTE must meet all federal and state occupational safety and health administration rules and regulations. Subrecipients must require compliance of all rules and regulations by the vendor before purchase is made.
4. The subrecipient is encouraged to plan a systematic method for continually updating equipment to avoid obsolescence and fluctuating budgets from year to year.
5. Equipment, supplies and materials must be received and be operational in sufficient time to make an impact on the program(s) during the current school year.
6. All purchased equipment must have adequate insurance coverage.
7. All equipment must be identified as Perkins-purchased equipment with a permanent label or other identification system supplied by the subrecipient. The assigned identification tag must be attached or the inventory number engraved on the equipment.
8. Rebates or coupons must be deducted to the original item cost in order to determine the eligible cost for federal funding.

IV. Use of Equipment Purchased with Funds Provided by the Career and Technical Education Grants

1. **Equipment Purchase**
Equipment and non-consumable items purchased for a specific career and technical education program must be located in that program. Career and technical education equipment and non-consumable items may be used for other instructional programs if the other use of the equipment/non- consumable items is outside of regular school hours.
2. **Repair and/or Replacement of Equipment Lost, Damaged, Stolen or Destroyed** The subrecipient shall be solely responsible for the repair and/or replacement of any item lost, damaged, stolen or destroyed. No reimbursement will be made by DCTE to the subrecipient for any loss, damage, theft or destruction of the equipment. The outcome of the item that was lost, damaged, stolen or destroyed must be documented in subrecipient's inventory. Records for items disposed of must be retained for 5 years.
3. **Inventory Control System**
A control system for all equipment (capitalized and non-capitalized) and non-consumable items shall be in effect by the subrecipient to ensure adequate safeguards for the prevention of loss, damage, theft or destruction of the equipment.
 - a. The subrecipient will be responsible for replacing or repairing (with non-federal funds) equipment that is lost, damaged, destroyed or stolen.
 - b. A physical inventory must be taken and the results reconciled with property records at least once every two years.
4. **Maintenance of Equipment**
Adequate maintenance procedures, such as maintenance contracts, shall be

implemented by the subrecipient to keep the equipment in good working condition. The cost of maintaining equipment must be paid by the subrecipient and is not the responsibility of DCTE.

5. Inventory Tags
All equipment must be tagged upon receipt of equipment. Tags or other means of identification that are different from local inventory will be provided by the subrecipient.
6. Property Records
Property records shall be maintained accurately for each item of equipment. The records shall include the following information:
 - a. A description of the property
 - b. A serial number or other identification number
 - c. The source funding for the property (Including Federal Award Identification Number)
 - d. Name of entity that holds title
 - e. The acquisition date
 - f. The cost of the property
 - g. The percentage of federal participation in the cost of the property
 - h. The location of the item
 - i. Use and condition of the property
 - j. Any ultimate disposition data including the date of disposal and sale price of the property. Records must be retained for 5 years post disposition per records retention rules.

V. **Disposition**

1. When there is no longer a need for a specific piece of equipment to accomplish the purpose of the career and technical education program, or if the equipment becomes worn out or obsolete, the subrecipient will dispose of the equipment using the following process:
2. Disposition of equipment
 - a. Subgrantees may use equipment for other approved CTE programs within the subrecipient's district or member district (if subrecipient is a consortium) if the use is for the same purpose for which the item was purchased.
 - b. **Non-Capitalized Equipment Disposition Procedure**
 - (1) Offer the equipment to other approved CTE programs, as appropriate for relevant purposes.
 - a) If District is the subrecipient – Offer to other appropriate CTE programs within the district.
 - b) If Consortium is the subrecipient – Offer to programs at a member district within the consortium.
 - (2) Notify DCTE Grants Specialist of items to be surplus.
 - (3) DCTE will notify all other eligible subrecipients about the surplus.

equipment. DCTE will determine who will receive the equipment. Shipping or other costs incurred in transferring the equipment will be paid by the receiving school.

- (4) If no other subrecipient wants the surplus non-capitalized equipment, DCTE will notify the subrecipient that they may surplus the non-capitalized equipment per subrecipient disposition policies.

c. Capitalized Equipment Disposition Procedure

- (1) Offer the equipment to other approved CTE programs, as appropriate for relevant purposes.

- a) If District is the subrecipient – Offer to other appropriate CTE programs within the district.
- b) If Consortium is the subrecipient – Offer to programs at a member district in the consortium.

d. Notify DCTE Grants Specialist of items to be surplus or sold.

- (1) If subrecipient wants the capitalized equipment to be transferred to another subrecipient, DCTE will notify all other eligible subrecipients about the capitalized equipment. DCTE will determine who will receive the equipment. Shipping or other costs incurred in transferring the equipment will be paid by the receiving school.

a) If subrecipient wants to sell the property:

- i. Fair market value must be determined and a Perkins Disposition Form must be completed. Fair market value is the value of the item on the open market. A copy of the sales receipt must be submitted with the disposition form.
- ii. The federal interest in the equipment is determined by the proportion of the federal share in the acquisition cost. The percentage of the federal share is then multiplied by the amount received by the sale to determine the federal interest.
- iii. The federal interest must be used to purchase more equipment and a Perkins Federal Interest Transfer Worksheet must be submitted and approved by DCTE for new purchases.
- iv. Inventory records must document the sale of the item(s) sold and new records created for items purchased with the federal interest.

- b) If the subrecipient trades the equipment in, the amount of the credit must be deducted from the sales price in order to determine the eligible cost of the new equipment. Federal funds cannot be used to pay the original price prior to the rebate deduction. Coupons and rebates must be properly documented in the transaction.

3. Broken Equipment – If a piece of equipment is broken and no longer usable, the subrecipient must document the disposal of the item and indicate the condition in the inventory at time of disposition. These records must be kept for 5 years per records retention rules.

VI. Termination of Program

1. Upon receiving notification from the subrecipient of the termination of an approved career and technical education program, DCTE will determine the time and method of disposition of the equipment. It is the sole responsibility of DCTE to determine whether the equipment is to be transferred to another subrecipient, sold, traded or retained by the subrecipient.
2. The actual disposition of the equipment may be accomplished by moving it to another approved career and technical education program. Actual physical transfer of equipment shall be determined by DCTE.

VII. Programs That Do Not Accept Perkins Funds

1. If a program chooses to not accept Perkins funds, but continues to offer approved CTE programs:
 - a. LEA must return any inventory that has federal interest, any item with a current fair market value greater than \$5,000, to the state.
 - b. LEA may retain any supplies, materials and non-capitalized equipment as long as they continue to have an approved CTE program for which the items were purchased.
2. If program chooses to not accept Perkins funds and does not offer approved CTE programs
 - a. LEA must return all items purchased with Perkins that have value

VIII. Records Retention

1. All items that have value must be kept in the subrecipient's inventory.
2. Items that were disposed of must continue to be listed in the inventory 5 years following the date of disposition and must list the outcome of the disposition (i.e. broken and disposed, transferred to [Name] consortium, stolen, etc.)