

Town of Colchester/Colchester Board of Education Purchasing Policy Addendum Federal Uniform Guidance

When procuring property and services under a Federal award (including federal funds that are passed through the State of Connecticut), the Town of Colchester/Colchester Board of Education will follow the federal procurement standards as set forth in the Code of Federal Regulations (CFR) Sections 200.318 to 200.327.

Objectives of the procurement standards are to ensure the following:

- Oversight must be maintained to ensure contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
- Contracts are awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.
- Records must be sufficiently maintained to detail the history of procurement.
- Transactions are conducted in a manner providing full and open competition.
- Potential bidders are not precluded from qualifying during the solicitation period.
- Avoid acquisition of unnecessary or duplicative items.

In addition, the Town of Colchester/Colchester Board of Education purchasing procedures will include the following requirements in accordance with the CFR.

CFR Section	Requirement	Procedures
200.321	Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.	(a), (b) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible including:
		(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
		(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
		(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
		(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
		(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
		(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

CFR Section	Requirement	Procedures	
200.322	Domestic preferences for procurements	(a)	As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
200.323	Procurement of Recovered Materials		A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
200.324	Contract cost and price	(a)	The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.
		(b)	The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
		(c)	Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
		(d)	The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

CFR Section	Requirement	Procedures
200.325	Federal awarding agency or pass-through entity review	(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
		(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates
		(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
200.326	Bonding requirements.	For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:
		(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
		(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
		(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

CFR Section	Requirement	Procedures
200.327	Contract provisions	The non-Federal entity's contracts must contain the applicable provisions described in appendix II to this part.
		(A) Contracts for more than the simplified acquisition threshold, 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)
		(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").
		(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).
		(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.

CFR Section	Requirement	Procedures
200.327	Contract provisions	(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).
		(H) 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 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 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension."
		(I) 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 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.

Uniform Guidance defines five (5) methods of procurement and the requirements for each type. The Town of Colchester/Colchester Board of Education purchasing policy is to follow the procedures as required and summarized in the following table:

Procurement Type	Dollar Threshold	Procedures
Micro-purchases	\$0 – \$10,000	May be awarded without soliciting competitive price or rate quotes if price is considered to be reasonable. Reasonableness can be determined by comparing the price to past purchases or other published prices and/or requesting prices from more than one vendor When possible, purchases will be distributed equitably among a range of qualified vendors
Small purchases	\$10,001 – 250,000	Price or rate quotes must be obtained from at least two (2) sources Price quotes, including phone quotes must be formally documented and retained. Price does not need to be deciding factor

Procurement Type	Dollar Threshold	Procedures
Sealed bids	\$250,001 and greater	<p>Bids must be formally solicited from an adequate number of vendors (2 or more)</p> <p>Bids must be publicly advertised</p> <p>Bids/RFP package will provide sufficient response time</p> <p>Request for bid or proposal will clearly define details and scope of the project, and the items or services requested from the bidder including the timeline</p> <p>Bids will be opened publicly</p> <p>Bids will be awarded based upon firm fixed price contract made in writing to the lowest responsive and responsible bidder</p> <p>Any or all bids may be rejected based upon cancellation of the project, change in needs or any other valid reason. The reason for rejecting all bid must be formally documented</p>
Competitive proposals	\$250,001 and greater	<p>Bids must be publicized and identify all evaluation factors and their relative importance</p> <p>Bids must be solicited from an adequate number of qualified sources</p> <p>Award will be based upon a written method for conducting technical evaluations of the proposals and selecting recipients</p> <p>Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered</p>
Noncompetitive procurement	\$10,000 and greater	<p>May be used only when the item is available only from a single source, the public exigency or emergency will not permit a delay resulting from competitive solicitation, federal awarding agency or pass-through entity expressly authorizes its use in response to a written request, or after solicitation of a number of sources competition is determined inadequate</p> <p>Justification of the use of noncompetitive procurement must be documented</p> <p>Research on availability from multiple sources must be documented</p> <p>Documentation of authorization must be retained</p> <p>Any initial solicitations from multiple sources which are concluded to be inadequate, and such reasoning, must be documented</p>

The full text of the procurement standards contained in the CFR have been included in this purchasing policy addendum as Appendix A. Any subsequent amendments to the federal procurement standards will be automatically incorporated into this purchasing policy addendum as of their effective date.