

Procurement Policy for:

- 1) Entry Level Driver Training Program Grant**
- 2) Community Development Block Grant (Entitlement)**

Dubuque Community School District Procurement Policy:

Entry Level Driver Training Program Grant

Effective Date April 11, 2023

Community Development Block Grant (Entitlement)

Effective Date September 12, 2023

Definitions

- **2 CFR Part 200** - Establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-federal entities.
 - o Found here: <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>
- **Conflict of interest** -a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.
- **Noncompetitive procurement** - Purchase of property, goods, and/or services, where a competitive method of procurement is not utilized. Noncompetitive procurement can only be awarded if one or more of the situations detailed under Section 4(C)(i) apply.
- **Procurement** - the act of obtaining or purchasing goods or services, typically for business purposes.

1. *Introduction and Purpose.*

In keeping with its commitment to maintain the highest standards of conduct and ethics, Dubuque Community School District ("District") has adopted this Procurement Policy (the "Policy") to ensure that goods and services purchased by the (District) are obtained in a cost-effective manner and in compliance with applicable federal and state laws.

The acquisition processes described in this Policy apply to all government-funded purchases made by ("District")'s employees, directors, officers, or agents (together, ("District Purchasers")). Purchases may also be subject to prior funding source approval and additional requirements imposed by grants or contracts. Program directors are responsible for reviewing any such additional requirements and ensuring that contractors and vendors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

2. *Code of Conduct.*

- A. ("District") Purchasers shall not participate in the selection, award, or administration of a contract if they have a real or apparent conflict of interest. Such a conflict arises when:
 - i. The ("District") Purchaser, any immediate family member (spouse, child, parent, parent-in-law, sibling, or sibling-in-law) partner, or an organization that employs, or is about to employ, any of the above has a direct or indirect financial or other interest

in or will receive a tangible personal benefit from a firm or individual considered for the contract award.

- ii. An "organizational conflict of interest" is created because of a relationship the ("District") has with a parent, affiliate, or subsidiary organization that is involved in the transaction such that ("District") is or appears to be unable to be impartial in conducting a procurement action involving the related organization.
- B. ("District") Purchasers shall not solicit or accept gifts, money, gratuities, favors, or anything of monetary value, except unsolicited items or services of nominal value (no greater than \$20) from vendors, prospective vendors, parties to subcontracts, or any other person or entity that receives, or may receive, compensation for providing goods or performing services for ("District").
- C. All ("District") Purchasers shall review and comply with the ("District")'s procedures for disclosing, reviewing, and addressing actual and potential conflicts of interest.

3. ***Procurement Requirements and Considerations.***

- A. Competition. All procurements shall be conducted in a manner that provides, to the maximum extent practical, full, and open competition. Procurements shall:
 - i. Avoid noncompetitive practices that may restrict or eliminate competition, including but not limited to:
 - a. Unreasonable qualification requirements.
 - b. Unnecessary experience and excessive bonding requirements.
 - c. Noncompetitive pricing practices between firms or affiliated companies.
 - d. Noncompetitive contracts to consultants on retainer contracts.
 - e. Organizational conflicts of interest.
 - f. Specifying "brand name" only instead of allowing "an equal" product.
 - g. Arbitrary actions.
 - ii. Not intentionally split a single purchase into two or more separate purchases to avoid dollar thresholds that require more formal procurement methods.
 - iii. Exclude contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for a proposal from competing for such procurement.
 - iv. Include in any prequalified list an adequate number of current, qualified vendors, firms, or products.
 - v. Not preclude potential bidders from qualifying during the solicitation period.
 - vi. Not use any geographic preferences (state, local or tribal) in the evaluation of bids or proposals, except where expressly mandated or encouraged by applicable federal statutes.

- B. Profit. For noncompetitive procurements (or when cost analysis is used), profit must be negotiated as a separate element of the procurement price.
- i. To establish a fair and reasonable profit, consider: complexity of work performed, risk borne by contractor, contractor's investment, amount of subcontracting, quality of contractor's record and past performance, and industry profit rates in surrounding geographical area for similar work.
 - ii. ("District") may not use either the cost plus a percentage of cost, or percentage of construction cost methods of contracting.
- C. Minority Owned, Women Owned, and Small Business Vendors. ("District") is committed to taking all necessary affirmative steps to assure that minority business, women's business enterprises and labor surplus area firms ("MWSB Vendors") are used whenever possible. Such steps include:
- i. Placing qualified MWSB Vendors on solicitation lists;
 - ii. Soliciting MWSB Vendors whenever they are potential sources;
 - iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MWSB Vendors;
 - iv. Establishing delivery schedules, where requirement permits, which encourage participation by MWSB Vendors;
 - v. Using services and assistance, as appropriate, of such organizations as Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - vi. Requiring the prime contractor, if subcontracts used, to take affirmative steps listed in paragraphs (i) through (v) of this section.
- D. Minimum Bonding Requirements. For construction or facility improvement contracts or subcontracts exceeding the Simple Acquisition Threshold (\$250,000), the requirements for bonding shall, at a minimum, be as follows:
- i. A bid guarantee from each bidder is equivalent to 5% of the bid price.
 - ii. A performance bond on the part of the contractor is for 100% of the contract price.
 - iii. A payment bond on the part of the contractor is for 100% of the contract price.
 - iv. All bonds required in this section are obtained from companies holding certificates of authority as acceptable sureties pursuant to the surety requirements for companies doing business with the United States {31CFR Part 223}.
- E. Solicitations. All solicitations shall incorporate a clear and accurate description of the technical requirements for products or services to be procured. Descriptions:

- i. Must not contain features which unduly restrict competition.
 - ii. May include a statement of the qualitative nature of the material, product, or service to be procured.
 - iii. When necessary, must set forth minimum essential characteristics and standards necessary to satisfy its intended use.
 - iv. Must avoid detailed product specifications if possible.
 - v. May use a "brand name or equivalent" description to define performance or other salient requirements when impractical or uneconomical to make a clear and accurate description of technical requirements. Specific named brand features required to be met must be clearly stated.
 - vi. Identify all requirements which offerors must fulfill and all other factors to be used in evaluating bids and proposals.
- F. Considerations. ("District") Purchasers should consider taking the following actions when procuring goods and services:
- i. Conduct a lease vs. purchase analysis, when appropriate, including for property and large equipment.
 - ii. Consolidate or break out procurements to obtain a more economical purchase, if possible.
 - iii. Use value engineering clauses to offer reasonable opportunities for cost reductions in construction contracts for projects of sufficient size.
 - iv. Use time and materials contracts only if no other contract is suitable and the contract includes a ceiling price that the contractor exceeds at their own risk. If such contract is negotiated and awarded, ("District"), must assert a high degree of oversight to obtain reasonable assurance that contractor using efficient methods and effective cost controls.

4. *Procurement Methods.*

- A. All procurements. All procurements made under this policy shall:
- i. Be necessary, at a reasonable cost, documented, not prohibited by law or the applicable funding source, and made in accordance with this Policy.
 - ii. Avoid acquiring unnecessary or duplicative items.
 - iii. Engage responsible vendors who possess the ability to perform successfully under the terms and conditions of a proposed procurement. ("District") Purchasers shall consider: vendor integrity and qualifications, public policy compliance, past

performance record, financial and technical resources, key personnel, and other factors that will provide the best overall value and are deemed to serve the best interests of ("District").

- B. Standard Methods. For transactions meeting the specifications set forth in Appendix 1, ("District") Purchasers shall follow the applicable procurement method set forth therein.
- C. Exceptions to Standard Methods.
 - i. *Noncompetitive Procurement*. Procurement by solicitation of a proposal from a single source may only be used if at least one of the following apply and is adequately documented:
 - a. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (refer to Appendix I);
 - b. Item is only available from a single source;
 - c. Public exigency or emergency will not permit any delay;
 - d. Federal awarding agency or pass-through expressly authorizes a noncompetitive procurement in response to a ("District") request; or
 - e. After soliciting a number of sources, competition is determined inadequate.

5. ***Procurement Procedures***. See Appendix 2 for ("District") Procurement Procedures.

6. ***Contract Provisions***. All ("District") procurement contracts shall contain the applicable contract provisions contained in Appendix II to 2 CFR Part 200 - Contract Provisions for Non-Federal Entity.

7. ***Documentation***.

- A. Debarment. ("District") shall either:
 - i. Confirm and document that the vendor is not excluded from doing business with the federal government (see www.sam.gov/SAM/) before entering into a contract; or
 - ii. Obtain a signed Debarment Certificate substantially in the form of Appendix 3.
- B. Lobbying Certificate. ("District") shall obtain signed Lobbying Certificates substantially in the form of Appendix 4 for procurements > \$100,000.
- C. Records. ("District") shall maintain records sufficient to detail history of each procurement transaction. These records must include, but are not limited to:
 - i. A description and supporting documentation showing rationale for procurement method (e.g., cost estimates);
 - ii. Selection of contract type;
 - iii. Written price or rate quotations (such as catalog price, online price, email or written quote), if applicable;
 - iv. Copies of advertisements, requests for proposals, bid sheets or bid proposal packets;

- v. Reasons for vendor selection or rejection, including relevant panel or committee records, rejection letters and award letter; and
- vi. The basis for the contract price.

8. *Compliance with this Policy.* Program directors shall maintain oversight to ensure that contractors and vendors perform in accordance with the terms, conditions, and specifications of contracts or purchase orders. Violations of this policy may result in disciplinary action, up to and including termination.

Appendix 1

Standard Methods of Procurement for the Entry Level Driver Training Program Grant

Recommend adding approval authority requirements for each threshold (i.e., Micro-purchases require approval from Project Manager, Small Purchase approved by Department Head, Sealed bids require committee approval, etc.)

Type	Threshold	Method
<i>Micro-purchase</i>	\$10,000	<ul style="list-style-type: none"> - Price must be reasonable - Periodically distribute purchases equitably among qualified vendors
<i>Small Purchase</i>	\$10,000.01 \$250,000	<ul style="list-style-type: none"> - Obtain written price or rate quotations from at least two qualified vendors - Example documentation: catalog price, online price, email, or written quote
<i>Sealed Bids</i>	> \$250,000	<p>Pre-Solicitation</p> <ul style="list-style-type: none"> - Conduct cost or price analysis <p>Solicitation</p> <ul style="list-style-type: none"> - Publicly advertise invitation for bids - Include specifications or information sufficient for bidders to respond - Provide adequate time to respond - Solicit a sufficient number of bids <p>Bid Review/Selection</p> <ul style="list-style-type: none"> - Open bids at time and place set forth in invite - Award to lowest responsive and responsible bidder - May reject bids for sound, documented reason - Award written, fixed price contract
<i>Competitive Proposals</i>	> \$250,000	<p>Pre-Solicitation</p> <ul style="list-style-type: none"> - Conduct cost or price analysis <p>Solicitation</p> <ul style="list-style-type: none"> - Publicly advertise request for proposals - Identify all evaluation factors and their relative importance - Solicit bids from at least two vendors <p>Proposal Review/Selection Committee as defined by Appendix 2</p> <ul style="list-style-type: none"> - Consider all proposals to maximum extent practical - Use written method to conduct technical evaluations of the proposals - Award contract to bidder with most advantageous proposal, considering price and other factors as defined by Appendix 5 rubric - Award fixed price or cost-reimbursement contract

Appendix2

("District") Procurement Procedures for the Enty Level Driver Training Program Grant

A. New Contract/Purchase Order

1. ("District") Purchaser determines the applicable and appropriate procurement method.
 - a. If micro-purchase or small purchase methods are appropriate, conduct procurement as outlined in the Policy and retain appropriate documentation of quotes and vendor selection, etc. If prior approval is required for the purchase, refer to step 2.
 - b. If sealed or competitive bid methods are required, complete steps 2 through 5.
2. If funding source approval is required, work with CFO or designee to obtain. Depending on the procurement method used, ("District"1) Purchaser completes Bid Form and submits to CFO as part of the approval process.
3. ("District"1) Purchaser, in consultation with accounting and legal departments as needed, formalizes the bid packet and submits it to CFO to post to on ("District"1) website for prospective vendors to access after completing a short registration.
4. Depending on company thresholds or minimum requirements set for approval, ("District"1) Purchaser either makes the procurement decision or presents all bid responses to the appropriate committee or personnel.
5. If a purchasing committee is involved, it makes a recommendation on awarding the bid to the CFO. Bid award is reviewed and a final decision made by the CFO.

Appendix3

Certification Regarding Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Appendix II of 2 CFR Part 200

For the Entry Level Driver Training Program Grant

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, 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) 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." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(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.

Name of Vendor, Contractor, or Subgrantee: _____

Signature: _____

Name of Authorized Signatory: _____

Title:_____

Date: _____

Appendix4
"44 C.F.R. PART 18 APPENDIX A - CERTIFICATION REGARDING LOBBYING"
Certification for Contracts, Grants, Loans, and Cooperative Agreements
For the Entry Level Driver Training Program Grant

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

Appendix 5
Example RFP Decision Rubric
For the Entry Level Driver Training
Program Grant

Architectural Design Services		Category Weight	Weight
Category 1	Deliverables	20	
	Adequacy, clarity and completeness of response		10
	Project Plan-technical approach to the project		10
Category 2	Price	30	
	Total proposal cost		25
	Additional cost factors		5
Category 3	Capacity	20	
	Number of employees dedicated to project		5
	Past performance on similar size projects		10
	Financial stability		5
Category 4	Company Expertise	30	
	Expertise level of project members		10
	Experience on related projects		10
	Has firm shown innovative designs on past projects		10
TOTAL		100	

Instructions:

Step 1: Add factors in the decision in column B

Make sure you copy formulas if you add rows.

Step 2: Change weights so that they add to 100 (see below cat weight column)

This forces you to understand how important these elements are to you relative to each other.

Step 3: Fill out areas with scores from 1-10

Note for negatives, reverse your thinking (so a high score on negative like risk means it's not risky).

Use category weight subtotals to help guide your weighting.

Note that as you do, the weighted averages are shown as subtotals and absolute totals along the bottom.

Resulting scores are shown at the bottom of each opinion.