

**Authority to Make Purchases and Enter into Procurement Contracts**

The procurement and purchasing process generally involves (1) budgeting and other planning for expenditures, (2) evaluating needs and identifying general options that would address a need, (3) selecting a method of procurement and following other procurement procedures for a specific purchase or contract, (4) making an actual purchase or entering into a binding procurement-related contract on behalf of the District, and (5) authorizing and making an actual disbursement of funds from the District treasury in order to pay for a purchase or contractual procurement of services, supplies, equipment, or other property.

Assuming an authorized method of procurement has been followed (as established by applicable law and under separate District policies and procedures), this policy focuses on the authority to act as a District purchasing agent by making specific purchases and/or entering into procurement contracts on behalf of the District.

Prior to taking any action that binds the District to an expenditure of funds, the administration shall obtain the Board of Education's approval of any specific purchase or any procurement contract if any one or more of the following circumstances applies:

1. The transaction involves the District's purchase, lease, or other acquisition of real estate, a building/facility, or some other interest in real estate (such as an easement). Such transactions also generally require authorization by a vote of the electors at an annual or special meeting.
2. Except as otherwise directed or authorized by the Board and except in a situation involving a public exigency or emergency where the District Administrator approves an emergency procurement and promptly notifies the Board of his or her emergency action:
  - a. Any individual procurement transaction or contract for the procurement of goods or services in excess of \$5,000, even where the transaction is accounted for in the appropriations found within the current Board-approved budget. This paragraph applies to a discretionary choice to exercise a renewal or extension option found in an existing contracting arrangement, but it does not require additional authorization to make an installment or other periodic payment that is due and payable for a disbursement that was previously approved in the aggregate by the Board.
  - b. The entering of any contract involving construction or remodeling of District facilities, where the specific project has not been authorized by the Board in advance; except that the District Administrator, may authorize small maintenance and repair projects of less than \$5,000 if the expenditure is sufficiently accounted for within a contingency-type appropriation of the current Board-approved budget.
  - c. The entering of any contract involving construction or remodeling of District facilities with a value in excess of \$5,000 even if the specific project has been authorized by the Board and is accounted for within the appropriations of the current Board-approved budget.
  - d. Any procurement in excess of \$5,000 that is obtained through competitive bidding or through a competitive request for proposal process.

- e. Any procurement in excess of \$5,000 for which the administration has relied on a noncompetitive (“sole source”) procurement method.
- f. The procurement requires the approval and execution of an intergovernmental agreement.
- g. Any unplanned procurement in excess of \$5,000 that the administration determines will be highly likely to require the Board – either immediately or prior to the close of the budget year – to make a budget amendment that, by statute, must be approved by 2/3 of the entire membership of the Board.
- h. Any procurement that the administration proposes to pay for by using an unassigned or assigned fund balance or that would require the District to change the designated purpose of any committed fund balance amounts.
- i. Any purchase of textbooks that have not previously been adopted by the Board for use in the curriculum.
- j. Any individual procurement transaction in excess of \$5,000 that involves entering into a contract proposed or drafted by a vendor/provider that is other than a standard consumer purchase order.
- k. Any individual procurement transaction in which the vendor/provider is requesting that the District execute a contract in which the District would be expressly waiving legal claims or remedies, agreeing to name a non-District party as an additional insured, and/or agreeing to indemnify or hold harmless any non-District party.

For all procurement transactions that do not require specific, advance Board approval under this policy and for which the Board has not provided any more specific direction, the District Administrator, may make a final purchase, execute a binding procurement contract that has been reviewed and approved by the District Administrator or authorize a designee to make such a purchase or execute such a contract on behalf of the District.

The Board recognizes that the District’s procurement agents have authority under this policy to make certain purchases and to enter into certain procurement contracts on behalf of the District without obtaining specific, advance approval from the Board – including especially those relatively routine purchases that are within the budget appropriations that have been previously approved by the Board. Nonetheless, the Board also expressly encourages the administration to present any procurement decision for specific Board approval whenever the administration determines that either (1) the procurement decision is particularly important or non-routine, or (2) it would otherwise be in the best interests of the District for the Board to either approve the transaction or give other specific direction to the administration regarding the transaction. Further, the authority granted to the administration and to District purchasing agents under this policy does not exempt such individuals from being evaluated on their exercise of sound judgment in connection with the use of such authority.

For all purchasing and procurement transactions that are brought to the Board for advance approval, the administration shall clearly identify the key terms of the transaction and, where appropriate, make a recommendation among any options that are presented. Where the administration has relied on a sole-source procurement exception and is seeking Board approval of a transaction, the administration shall be prepared to identify for the Board the reason that sole-source procurement was used and the reason the administration believes that the price and other key terms of the proposed transaction are reasonable.

For purposes of this policy, the purchasing or contractual procurement of supplies, equipment, and other property includes, but is not necessarily limited to, rental or leasing arrangements, licensing, purchases involving the transfer of ownership, and the purchase or acquisition of intangible property such as insurance coverage. The purchasing or contractual procurement of services does not include employment.

No order check, share draft, or other draft or actual disbursement of District funds can be made from the District treasury and the depositories in which the treasury's funds are maintained unless the money so disbursed has been lawfully appropriated, the proper payment voucher has been filed, and the Board or an annual or special meeting of the electors has directed the disbursement (draw order) from the treasury.

### **Legal References:**

#### **Wisconsin Statutes**

<a href="#">Section 66.0135</a>	[contracts and orders, receipt of invoices, and payments]
<a href="#">Section 66.0607</a>	[withdrawal or disbursement from local treasury]
<a href="#">Section 120.10</a>	[powers of the annual meeting, including authorizing or directing the district to purchase/provide certain property or services]
<a href="#">Section 120.16</a>	[school district treasurer duties, including procedures for disbursements from treasury and funds transfers]

#### **Federal Law**

<a href="#">2 C.F.R. Part 200 Subpt. D</a>	[post-award requirements under the federal Uniform Guidance]
<a href="#">2 C.F.R. §200.318</a>	[general standards for procurement supported by federal funds]
<a href="#">2 C.F.R. §200.319</a>	[written procurement standards required]

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