



MARLBOROUGH PUBLIC SCHOOLS

Internal Control Manual for Federal Grants and Food Services

Document reviewed and approved by:
Douglas Dias
Director of Finance and Operations
July 2022

Introduction

This manual sets forth the policies and procedures used by Marlborough Public Schools to administer federal funds. The manual contains the internal controls and grant management standards used by the district to ensure that all federal funds are lawfully expended. It describes in detail the district's financial management system, including cash management procedures, procurement policies; inventory management protocols; procedures for determining the allowability of expenditures; time and effort reporting; record retention; and sub-recipient monitoring responsibilities. New employees of the district, as well as incumbent employees, are expected to review this manual to gain familiarity and understanding of the district's rules and practices. This manual was created for compliance to the federal Uniform Grant Guidance regulations 2 CFR Part 200 "UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS".

Financial Management System

The district maintains a proper financial management system to receive both direct and state-administered grants and to expend funds associated with a grant award. Certain fiscal controls and procedures must be in place to ensure that all financial management system requirements are met. Failure to meet a requirement may result in return of funds or termination of the award.

Financial Management Standards

The standards for financial management systems are found at 2 C.F.R. § 200.302. The required standards include:

Identification

The district must identify, in its accounts, all federal awards received and expended and the federal programs under which they were received. Federal program and award identification must include, as applicable, the CFDA title and number, federal award identification number and year, name of the federal agency, and, if applicable, name of the pass-through entity.

Financial Reporting

Accurate, current, and complete disclosure of the financial results of each federal award or programs must be made in accordance with the financial reporting requirements set forth in the Uniform Grant Guidance (UGG) 2 CFR 200 and U.S. Education Department General Administrative Regulations (EDGAR) 34 CFR 76 State Administered Grants. [eCFR: 34 CFR Part 76 -- State-Administered Programs](#)

Accounting Records

The district must maintain records which adequately identify the source and application of funds provided for federally assisted activities. These records must contain information pertaining to grant or subgrant awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation [2 CFR & 200.302 Financial management - Code of Federal Regulations \(ecfr.io\)](#)

Internal Controls [2 CFR & 200.303 Internal controls - Code of Federal Regulations \(edfr.io\)](#)

Effective control and accountability must be maintained for all funds, real and personal property, and other assets. The district must adequately safeguard all such property and must

assure that it is used solely for authorized purposes.

“Internal controls” are tools to help program and financial managers achieve results and safeguard the integrity of their program. Internal controls should be designed to provide reasonable assurance that the following objectives are achieved:

- Effectiveness and efficiency of operations.
- Adequate safeguarding of property.
- Assurance property and money is spent in accordance with grant program and to further the selected objectives; and
- Compliance with applicable laws and regulations.

Budget Control

Actual expenditures or outlays must be compared with budgeted amounts for each federal award.

Cash Management

The District must maintain written procedures to implement the cash management requirements found in UGG 2 CFR 200.305 [2 CFR § 200.305 Federal payment - Code of Federal Regulations \(ecfr.io\)](#) and EDGAR 34 CFR 76.

Please see page 15 for these written cash management procedures.

Allowable Costs

The district must maintain written procedures for determining allowability of costs in accordance with UGG 2 CFR 200 Subpart E [Title 2 Part 200 Subpart E - Code of Federal Regulations \(ecfr.io\)](#)

Please see page 10 for these written allowability procedures.

Overview of the Financial Management/Accounting System

The Marlborough Public School district utilizes Tyler Technologies Munis Financial system. Munis is the primary system for purchasing; human resources and payroll; and budget and accounting. Separate inventory systems exist for information technology, instructional materials, and fixed assets. The director of technology is responsible for the inventory of all hardware and software district wide. Inventory for instructional materials is the responsibility of the respective director and/or department Head. Grant managers are responsible for the inventory of items purchased with grant funds from the time of purchase through their disposal. Once a grant award notice (GAN) is received by the district, the director of finance and operations and individual program grants manager meet to review the planned expenditures considering the approval. Once a copy of the grant award notice is received by the district a request to establish the account structure, as well as a copy of the grant budget are forwarded to the city auditor establishes who establishes the account codes and enters the budget amounts in Munis and then the grant budget is available for use. In compliance with 2 C.F.R. 200.302, the district must track the CFDA title and number, federal award identification number and year, name of the federal agency, and, if applicable, name of the pass-through entity. The grant tracking sheet is the method used by the district to meet this requirement.

All grant expenditures must be within the dates of the grant award (start and end dates). Budgeted amounts in Munis must match the current grant award notice. If an amendment is

approved, Munis should be updated within five (5) days of receipt of the GAN.

Budgeting

The Planning Phase: Meetings and Discussions

Before Receiving the Grant Award Notice (GAN): Once a grant opportunity has been identified, the superintendent is notified of the potential grant funds. A memo should be sent to the Superintendent with the following information:

- Source of funds.
- Purpose of grant.
- Benefits and pitfalls of the grant for Marlborough Public Schools.
- Benefits to the students.
- Identification of grant manager.
- Timeline for application and approval.
- Match requirements, if applicable; and
- Potential amount and length of funds.

The Superintendent reviews and approve all grant applications. If the superintendent approves the concept of applying for the grant, the grant manager should meet with both the assistant superintendent of teaching and learning and the director of finance and operations. Grant management falls under the responsibilities of the assistant superintendent of teaching and learning. These meetings are designed to review the timeline, curriculum impacts, match requirements, grant reporting requirements, budget development / projections and potential concerns. If the grant would result in additional health insurance costs, a conversation with the city comptroller should occur in advance of the submittal deadline. If the grant could impact other departments, a list of individuals is developed for the grant manager to have a follow-up discussion with. For instance, if an application could result in technology purchases, the director of technology and school libraries would be involved in the planning process.

Grant funds can supplement the Marlborough Public Schools budget but cannot supplant budgeted funds. Therefore, when possible, it is critical that the grant application be developed in conjunction with the Marlborough Public Schools annual budget. Finally, grant managers should make use of existing furniture and equipment rather than purchasing new items with grant funds. The director of finance and operations or the facilities manager are good resources to locate available furniture and equipment for use.

Pension costs and reporting requirements should be discussed when preparing the application. Federally funded grants are required to set aside an additional 9% of the total salary for Massachusetts Teachers' Retirement System (MTRS) eligible employees. Massachusetts General Laws Chapter 35, Section 32A and Chapter 40, Section 5D require that all federal grants received by local governments be charged for pension costs incurred because of the grant. When possible, Marlborough Public Schools does not fund MTRS eligible individuals with federal grant funds.

Reviewing and Approving the Budget:

Before the grant application is completed (preferably 14 days in advance of the grant

application deadline), the finance and operations grants manager reviews the items in the budget to ensure allowability. See Section I for a discussion on performing allowability determinations. If the finance and operations grant manager determines that a cost is not allowable, then the grant application is returned to the grant manager noting the items that are ineligible and suggestions for modification. The grant manager, in conjunction with the finance and operations grants manager, will collaboratively revise the grant budget to ensure all items meet the allowability determination.

Once the finance and operations grant manager determines that all budgeted items are allowable and approves the budget, the grant application is forwarded to the superintendent for final approval. A copy of the full grant application is submitted to the finance and operations grants manager once signed by either the superintendent or director of finance and operations. The application is filed in the business office's grant share drive for the appropriate fiscal year.

After Receiving the GAN

After receiving the GAN, the approved budget can be loaded into Munis. If the GAN mirrors the grant submission budget, the GAN amounts are loaded into Munis without additional discussions. If the GAN amounts vary from the submission (whether increased or decreased), the grant manager and the finance and operations grant manager meet to review the differences and implications for the variance. A revised budget is developed based on the GAN and program objectives. The revised amounts, in sync with the GAN, are then loaded into Munis by the City Auditor.

Preparation of Grant Approvals: After receiving a GAN, all grants are approved by the School Committee. A grant cannot be established or set-up in Munis without their official approval. Expenditures cannot be charged to the grant until the application is approved by DESE. Expenditures prior to the approval date cannot be charged to the grant and should be charged to the carryforward funds of the same grant from the previous year if allowable.

Amending the Budget

The district ensures grant amendments are submitted and approved in advance of the needs. Grant amendments can be made for financial and/or programmatic purposes. The grant manager, assistant superintendent of teaching and learning, director of special education or the director of finance and operations can create a grant amendment. If a grant amendment is financial in nature, the director of finance and operations or the finance and operations grant manager shall review in advance of submission. Grant amendments must be submitted in advance of need; implementation of the amendment (either financial or programmatic) is reliant on the amendment approval date.

Budget Control

The district monitors its financial performance by comparing and analyzing actual results with budgeted results. The finance and operations grant manager runs year-to-date budget reports for all grant funds monthly. The year-to-date budget reports are used to update the grant managers. The year-to-date budget reports are sent electronically to each grant manager monthly. If significant variances exist, or a trend that may lead to a significant variance is determined by the finance and operations grants manager, the director of finance and operations

is notified. The grant manager and the finance and operations grant manager will determine if an amendment is appropriate.

Accounting Records

Accounting records are kept in finance and operations share drive. Paid invoices are kept on the city SharePoint site. The city auditor’s office is responsible for the maintenance of all purchase orders and related accounting records in conformance with the Municipal Records Retention Schedule. The web address for the retention schedule is [http://](http://www.sec.state.ma.us/arc/arcpdf/MA_Municipal_Records_Retention_Manual.pdf)

[www.sec.state.ma.us/arc/arcpdf/MA Municipal Records Retention Manual.pdf](http://www.sec.state.ma.us/arc/arcpdf/MA_Municipal_Records_Retention_Manual.pdf).

Relevant definitions in this section include the following:

- An asset is: anything owned by an individual or a business, which has commercial or exchange value. Assets may consist of specific property or claims against others, in contrast to obligations due others.
- A liability is: a loan, expense, or any other form of claim on the assets of an entity that must be paid or otherwise honored by that entity.
- Revenue is the inflows of assets from selling goods and providing services to customers, including the reduction of liabilities from selling goods and providing services to customers.
- An expense is: the amount of assets or services used during a period.

If an error is found while reviewing the year-to-date Munis report, the individual will notify the finance and operations grants manager who will research the potential error, and if necessary, generate a journal entry with supporting documentation in the form of a reclassification of funds request. The request is then reviewed by the director of finance and operations. Upon approval, the reclassification/journal entry document is forwarded to the city auditor to be finalized. The finance and operations grant manager is responsible for monitoring the approvals of the city auditor. If the document is not processed within two weeks, finance and operations grants manager requests an estimated date of completion from the city auditor.

The chart of accounts for the grant fund organization codes was set up so that an individual could track expenses by fund, fiscal year, award year, and source of funds. Below is an outline detailing the structure of the organization codes for grant funds:

Grant Fund Code 3 Digits	Site (School) 2 Digits	Program (Grant) 2 Digits	Grade Level 2 (Letter or Digits)
-----------------------------	---------------------------	-----------------------------	-------------------------------------

School grant fund:

This two-digit code designates the account as a school grant. Since the school fund for grants is “250,” all grant accounts begin with these numbers.

Site:

The two-digit code designates site associated with the grant. 04=Hildreth, 06=ECC, 15=Jaworek, 10=New Elementary School, 20=Kane,25=Richer, 35=Whitcomb,55=MHS, 80=District Wide

Program

Two-digit code is used here to designate a number assigned for

accounting purposes.

Grade Level:

The two-digit code designates the grade level the grant program supports.

- 01=Grade 1
- 02=Grade 2
- 03=Grade 3
- There are other codes letters, including DW for district wide

Object Codes:

The object codes are the same used by the general fund accounts.

Spending Grant Funds

As the recipient of federal funds, Marlborough Public Schools is responsible for administering the grant consistent with the grantor's terms and conditions. Federal funds must be administered in a manner consistent with the cost principles contained in EDGAR and 2 CFR Part 200 the Uniform Administrative Requirements, Cost Principles and Audit Requirements for federal awards. The director of finance and operations is responsible for ensuring compliance with EDGAR and 2 CFR Part 200.

Although each grant may have specific allowable and unallowable costs, Marlborough Public Schools adheres to the federal cost principles when developing and administering the budget. Federal cost principles require costs to be allowable, reasonable, and allocable.

To meet the definition of "allowable," a cost must be:

- Be necessary and reasonable to carry out the grant.
- Be consistent with the policies and procedures that apply uniformly to federal and non-federally financed expenses.
- Not be included as part of a match of federal funds; and
- Be adequately documented.

To meet the definition of "reasonable," the cost of the good or service does not exceed the amount a prudent person would spend on an item at the time the decision was made to incur the cost. Reasonable is further defined as:

- Use of sound business practices, adherence to federal, state, and local laws and regulations, and the terms and conditions of the Federal award.
- Use of market prices in the metro west Boston area for comparing the costs of goods and services.

To meet the definition of "allocable," the cost of the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received.

Allocable is further defined as:

- Costs are incurred specifically for federal award.
- Costs can be distributed in proportions that may be approximated using reasonable methods.

- Costs necessary to the overall operation of the non-federal entity. These definitions are copied from the code of federal regulations (CFR)

While developing and reviewing the grant budget, the Finance and Operation Grant Manager should keep in mind the difference between direct costs and indirect costs.

Direct and Indirect Costs

Determining Whether a Cost is Direct or Indirect:

- Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. 2 C.F.R. § 200.413(a).
- Indirect costs are those that have been incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. 2 C.F.R. § 200.56. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs. 2 C.F.R. § 200.413(a).

Identification with the federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of Federal awards. Typical costs charged directly to a federal award are the compensation of employees who work on that award, their related fringe benefit costs, the costs of materials and other items of expense incurred for the Federal award. 2 C.F.R. § 200.413(b). The salaries of administrative and clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate only if all the following conditions are met:

- Administrative or clerical services are integral to a project or activity.
- Individuals involved can be specifically identified with the project or activity.
- Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- The costs are not also recovered as indirect costs. 2 C.F.R. § 200.413(c).

Indirect Cost Rate

The Massachusetts Department of Elementary and Secondary Education (MA DESE) determines an unrestricted and restricted indirect cost rate for every district in the Commonwealth. The rates are determined annually based on information submitted in the End of Year report and are the maximum allowable rate for any fiscal year. Under 34 C.F.R. § 75.561 and 34 C.F.R. § 76.561, a state educational agency may approve an indirect cost rate for longer than one year. According to MA DESE, if a district utilizes an indirect cost figure, it must be equal to or less than the currently approved restricted rate. The decision to recover indirect costs using these established rates is a local option. Marlborough Public Schools does not apply an indirect cost rate to federal grants.

The MA DESE Grants Procedure Manual provides the following information on calculating the indirect cost allowable for a grant. The grant manual, and other important information, can be

found at <http://www.doe.mass.edu/grants/procedure/manual.html>. Indirect rates cannot be applied to capital expenditures or to the indirect cost themselves.

The following formula is recommended:

- Total entitlement
- Minus capital expenditures (line 10); and
- Minus each contract more than \$25,000
- Divided by one plus the restricted rate.

The resulting amount is the amount that can be used for grant activities. When this amount is subtracted from the total entitlement, the result equals the amount allowed for indirect cost.

If indirect costs are recovered, they shall be returned to the general fund of the city or town in accordance with Massachusetts General Laws, Chapter 44, Section 53.

Applying the Indirect Cost Rate

Once the District has an approved indirect cost rate, the percentage is multiplied against the actual direct costs (excluding distorting items such as equipment, contracts more than \$25,000, pass-through funds, etc.) incurred under a particular grant to produce the dollar amount of indirect costs allowable to that award. 34 C.F.R. § 75.564; 34 C.F.R. § 76.569. Once the District applies the approved rate, the funds that may be claimed for indirect costs have no federal accountability and may be used as if they were non-federal funds. For Direct Grants, reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions. 34 C.F.R. § 75.564.

Where a federal program has a specific cap on the percentage of administrative costs that may be charged to a grant, that cap must include all direct administrative charges as well as any recovered indirect charges.

Determining Allowability of Costs

Expenditures must be aligned with approved budgeted items. Any changes or variations from the state-approved budget and grant application need prior approval from the state.

When determining how the district will spend its grant funds, the finance and operations grants manager will review the proposed cost to determine whether it is an allowable use of federal grant funds *before* obligating and spending those funds on the proposed good or service. All costs supported by federal education funds must meet the standards outlined in, 2 CFR Part 200 Subpart E, which are provided in the bulleted list below. The director of finance and operations must consider these factors when making an allowability determination. Additional helpful questions to ask when making allowability determinations are located on page 11 of this policy.

Be Necessary and Reasonable for the performance of the federal award.

District staff must consider these elements when determining the reasonableness of a cost. A

cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision to incur the cost was made. For example, reasonable means that sound business practices were followed, and purchases were comparable to market prices.

When determining reasonableness of a cost, consideration must be given to:

- Whether the cost is a type generally recognized as ordinary and necessary for the operation of the district or the proper and efficient performance of the federal award.
- The restraints or requirements imposed by factors, such as: sound business practices; arm's-length bargaining; federal, state, and other laws and regulations; and terms and conditions of the federal award.
- Market prices for comparable goods or services for the geographic area.
- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the district, its employees, its students, the public at large, and the federal government.
- Whether the district significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the federal award's cost. 2 C.F.R. §200.404 [2 CFR § 200.404 Reasonable costs - Code of Federal Regulations \(ecfr.io\)](#)

While 2 C.F.R. §200.404 does not provide specific descriptions of what satisfies the “necessary” element beyond its inclusion in the reasonableness analysis above, necessary is determined based on the needs of the program. Specifically, the expenditure must be necessary to achieve an important program objective. A key aspect in determining whether a cost is necessary is whether the district can demonstrate that the cost addresses an existing need and can prove it. For example, the district may deem a language skills software program necessary for a limited English proficiency program.

When determining whether a cost is necessary, consideration may be given to:

- Whether the cost is needed for the proper and efficient performance of the grant program.
- Whether the cost is identified in the approved budget or application.
- Whether there is an educational benefit associated with the cost.
- Whether the cost aligns with identified needs based on results and findings from a need assessment.
- Whether the cost addresses program goals and objectives and is based on program data
- Allocable to the federal award: A cost is allocable to the federal award if the goods or services involved are chargeable or assignable to the federal award in accordance with the relative benefit received. This means that the federal grant program derived a benefit in proportion to the funds charged to the program. 2 C.F.R. §200.405. [2 CFR § 200.405 Allocable costs - Code of Federal Regulations \(ecfr.io\)](#) . For example, if 50% of a teacher's salary is paid with grant funds, then that teacher must spend at least 50% of his or her time on the grant program.
- Consistent with policies and procedures that apply uniformly to both federally financed and other activities of the district.

- Purchases for goods and services paid for with grant funds shall be net of all applicable credits. To avoid the earning of "credits" where the benefits are not reimbursable or credited to the federal grant, personal reimbursements are subject to the policies of the district. The district will take advantage of all prompts pay discounts. All payments from federal grants shall be processed through the district's accounting system through the invoice payment process.

2 CFR Part 200 Cost Principles in Subpart E must be considered when federal grant funds are expended. As provided above, federal rules require state- and District-level requirements and policies regarding expenditures to be followed as well. For example, state and/or District policies relating to travel or equipment may be narrower than the federal rules, and the stricter State and/or District policies must be followed. Further, certain types of incentives are allowable under federal law, but are not allowable under State law.

Selected Items of Cost

Part 200 examines the allowability of 55 specific cost items (commonly referred to as Selected Items of Cost) at 2 C.F.R. §§ 200.420-200.475. These cost items are listed in the chart below along with the citation where it is discussed whether the item is allowable. Please do not assume that an item is allowable because it is specifically listed in the regulation as it may be unallowable despite its inclusion in the selected items of cost section. The expenditure may be unallowable for several reasons, including: the express language of the regulation states the item is unallowable; the terms and conditions of the grant deem the item unallowable; or State/local restrictions dictate that the item is unallowable. The item may also be unallowable because it does not meet one of the cost principles, such as being reasonable because it is considered too expensive. If an item is unallowable for any of these reasons, federal funds cannot be used to purchase it.

District personnel responsible for spending federal grant funds and for determining allow ability must be familiar with the Part 200 selected items of cost section. The district must follow these rules when charging these specific expenditures to a federal grant. When applicable, District staff must check costs against the selected items of cost requirements to ensure the cost is allowable. In addition, State, District, and program-specific rules may deem a cost as unallowable and District personnel must follow those non-federal rules as well. The selected item of cost addressed in Part 200 includes the following (in alphabetical order):

Item of Cost	Citation of Allowability Rule
Advertising and public relations costs	2 CFR § 200.421
Advisory councils	2 CFR § 200.422
Alcoholic beverages	2 CFR § 200.423
Alumni/ae activities	2 CFR § 200.424
Audit services	2 CFR § 200.425
Bad debts	2 CFR § 200.426
Bonding costs	2 CFR § 200.427

Collection of improper payments	2 CFR § 200.428
Commencement and convocation costs	2 CFR § 200.429
Compensation – personal services	2 CFR § 200.430
Compensation – fringe benefits	2 CFR § 200.431
Conferences	2 CFR § 200.432
Contingency provisions	2 CFR § 200.433
Contributions and donations	2 CFR § 200.434
Defense and prosecution of criminal and civil proceedings, claims,	2 CFR § 200.435
Depreciation	2 CFR § 200.436
Employee health and welfare costs	2 CFR § 200.437
Entertainment costs	2 CFR § 200.438
Equipment and other capital expenditures	2 CFR § 200.439
Exchange rates	2 CFR § 200.440
Fines, penalties, damages, and other settlements	2 CFR § 200.441
Fund raising and investment management costs	2 CFR § 200.442
Gains and losses on disposition of depreciable assets	2 CFR § 200.443
General costs of government	2 CFR § 200.444
Goods and services for personal use	2 CFR § 200.445
Idle facilities and idle capacity	2 CFR § 200.446
Insurance and indemnification	2 CFR § 200.447
Intellectual property	2 CFR § 200.448
Interest	2 CFR § 200.449
Lobbying	2 CFR § 200.450
Losses on other awards or contracts	2 CFR § 200.451
Maintenance and repair costs	2 CFR § 200.452
Materials and supplies costs, including costs of computing devices	2 CFR § 200.453
Memberships, subscriptions, and professional activity costs	2 CFR § 200.454

Organization costs	2 CFR § 200.455
Participant support costs	2 CFR § 200.456
Plant and security costs	2 CFR § 200.457
Pre-award costs	2 CFR § 200.458
Professional services costs	2 CFR § 200.459
Proposal costs	2 CFR § 200.460
Publication and printing costs	2 CFR § 200.461
Rearrangement and reconversion costs	2 CFR § 200.462
Recruiting costs	2 CFR § 200.463
Relocation costs of employees	2 CFR § 200.464
Rental costs of real property and equipment	2 CFR § 200.465
Scholarships and student aid costs	2 CFR § 200.466
Selling and marketing costs	2 CFR § 200.467
Specialized service facilities	2 CFR § 200.468
Student activity costs	2 CFR § 200.469
Taxes (including Value Added Tax)	2 CFR § 200.470
Termination costs	2 CFR § 200.471
Training and education costs	2 CFR § 200.472
Transportation costs	2 CFR § 200.473
Travel costs	2 CFR § 200.474
Trustees	2 CFR § 200.475

Likewise, it is possible for the State and/or District to put additional requirements on a specific item of cost. Under such circumstances, the stricter requirements must be met for a cost to be allowable. Accordingly, employees must consult federal, State and District requirements when spending federal funds. **Massachusetts procurement laws are more restrictive than the federal guidelines; therefore, all purchases must follow state procurement laws but adhere to federal requirements.**

In order for a cost to be allowable, the expenditure must also be allowable under the applicable program statute (e.g., Title I of the Elementary and Secondary Education Act (ESEA), or the Carl D. Perkins Career and Technical Education Act (Perkins)), along with accompanying program regulations, non-regulatory guidance, and grant award notifications.

The State and/or District rules related to some specific cost items are discussed below:

- Technology purchases (hardware, software, and web-based systems) require the prior approval of the director of instructional technology. New purchases must be compatible with current operating, storage, and network configurations.
- Furniture (including carpet) purchases require the prior approval of the Facilities Manager. The following fire requirements must be met:
- Professional development (workshops, conferences, and consultants) requires prior approval by the assistant superintendent of teaching and learning. All professional development must be in line with the planned district-wide professional development.

District employees must be aware of these State and District rules and ensure they are complying with these requirements.

Frequent Types of Costs

Travel: Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of a grant recipient. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the recipient's non-federally funded activities and in accordance with the recipient's written travel reimbursement policies. 2 C.F.R §200.474(a).

Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the district in its regular operations as the result of its written travel policy. In addition, if these costs are charged directly to the federal award, documentation must be maintained that justifies that (1) participation of the individual is necessary to the federal award; and (2) the costs are reasonable and consistent with the district's established policy. 2 C.F.R §200.474(b).

In addition to the federal guidelines regarding travel, employees and officers must adhere to school policy. The travel policy covers single day travel, overnight travel, and out-of-state

travel. The policy can be found in the School Committee Policies; policy 3710 and 7310 on the MPS district website.

Helpful Questions for Determining Whether a Cost is Allowable

In addition to the cost principles and standards described above, the finance and operations grants manager and the grant manager can refer to this section for a useful framework when performing an allowability analysis. To determine whether federal funds may be used to purchase a specific cost, it is helpful to ask the following questions:

- Is the proposed cost consistent with an approved program plan and budget?
- Is the proposed cost consistent with program specific fiscal rules?
- For example, the district may be required to use federal funds only to supplement the amount of the funds available from nonfederal (and possibly other federal) sources.
- Is the proposed cost consistent with EDGAR?
- Is the proposed cost consistent with specific conditions imposed on the grant (if applicable)?

As a practical matter, the finance and operations grant manager, the assistant superintendent of teaching and learning and the grant manager should also consider whether the proposed cost is consistent with the underlying needs of the program. For example, program funds must benefit the appropriate population of students for which they are allocated. This means that, for instance, funds allocated under Title III of the Elementary and Secondary Education Act (ESEA) governing language instruction programs for limited English proficient (LEP) students must only be spent on LEP students and cannot be used to benefit non-LEP students. Further, under most major elementary and secondary education programs, recipients may use federal funds only to supplement the amount of funds available from nonfederal sources for the education of students participating in the program. The recipients cannot use federal funds to supplant nonfederal funds that would otherwise have been used for the expenditure in question.

Also, funds should be targeted to address areas of weakness, as necessary. To make this determination, the business office should review data when making purchases to ensure that federal funds to meet these areas of concern. This should be a collaborative effort of the director of finance and operations and finance and operations grants manager who review and approve requisitions, as well as purchase orders and tracks grant expenditures.

Federal Cash Management Policy/Procedures

The district will comply with applicable methods and procedures for payment that minimize the time elapsing between the transfer of funds and disbursement by the district, in accordance with the Cash Management Improvement Act at 31 CFR Part 205. Generally, the District receives payment from the Massachusetts Department of Elementary and Secondary Education, the Massachusetts Department of Public Health, and the Massachusetts Department of Early Education and Care on a reimbursement basis. 2 CFR § 200.305. However, if the district receives an advance in federal grant funds, the district will remit interest earned on the advanced payment quarterly to the federal agency. The district may retain interest amounts up to \$500 per year for administrative expenses. 2 CFR § 200.305(b) (9).

According to guidance from the U.S. Department of Education (ED), when calculating the

interest earned on ED grant funds, regardless of the date of obligation, interest is calculated from the date that the federal funds are drawn down from the G5 system until the date on which those funds are disbursed by the LEA.

Interest will not accrue if the LEA uses nonfederal funds to pay the vendor and/or employees prior to the funds being drawn down from the Edgrants system, commonly known as a reimbursement.

Payment Methods

Reimbursements: The district will initially charge federal grant expenditures to nonfederal funds. The finance and operations grant manager will request reimbursement for actual expenditures incurred under the federal grants monthly. By the 20th of each month, the finance and operations grant manager will run current year-to-date budget reports for all grants. Once reviewed, the finance and operations grant manager, or the director of finance and operations will log into the Massachusetts Department of Elementary and Secondary Education (MA DESE) EdGrants online grants information system EdGrants Link . Attached to all requests for funds is the current Munis year-to-date budget report that is the supporting documentation for the request. All reimbursements are based on actual disbursements, not on obligations. In addition, cash requests do not include the amounts paid by MA DESE to the Massachusetts Teachers' Retirement Board (MTRB).

The Massachusetts Department of Elementary and Secondary Education (MA DESE) will process reimbursement requests in a timely manner. Consistent with state and federal requirements, the district will maintain source documentation supporting the federal expenditures (invoices, time sheets, payroll stubs, etc.) and will make such documentation available for the MA DESE review upon request. Reimbursements of actual expenditures do not require interest calculations.

Advances: To the extent the district receives advance payments of federal grant funds, the district will strive to expend the federal funds on allowable expenditures as expeditiously as possible. Specifically, the District attempts to expend all drawn downs of federal funds within 72 hours of receipt.

Timely Obligation of Funds

When Obligations are Made

Obligations are orders placed for property and services, contracts and sub awards made and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period. EDGAR 434 CFR 76.707 [ecfr :: 34 CFR Part 76 -- State-Administered Programs](#)

The following table illustrates when funds are determined to be obligated under federal regulations:

If the obligation is for:	The obligation is made:
Acquisition of property	On the date which the district makes a binding written commitment to acquire the property
Personal services by an employee of the district	When the services are performed
Personal services by a contractor who is not an employee of the district	On the date which the district makes a binding written commitment to obtain the services
Public utility services	When the District receives the services
Travel	When the travel is taken
Rental of property	When the District uses the property
A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, Subpart E-Cost Principles.	On the first day of the project period.

Period of Performance of Federal Funds

All obligations must occur on or between the approved application from DESE beginning and ending dates of the grant project. 2 C.F.R. § 200.309 and EDGAR 34 CFR 76.708. This period is known as the period of performance. 2 C.F.R. § 200.77.

State-Administered Grants: For subgrantees of DESE grant funds, **EDGAR 34 CFR 76.708** states that sub grantees may begin to obligate funds when:

(a) If the authorizing statute for a program requires a State to make subgrants on the basis of a formula (see § 76.5), the State may not authorize an applicant for a subgrant to obligate funds until the **later** of the following two dates:

- If the authorizing statute for a program requires a State to make subgrants based on a formula (ex. ESSA, IDEA, PERKINS), the State may not authorize an applicant for a subgrant to obligate funds until the later of the following two dates:
 - (1) The date that the State may begin to obligate funds under § 76.703; or
 - (2) The date that the applicant submits its application to the State in substantially approvable form.

(b) Reimbursement for obligations under paragraph (a) of this section is subject to final approval of the application.

(c) If the authorizing statute for a program gives the State discretion to select subgrantees (competitive grants ex. Adult Ed), the State may not authorize an applicant for a subgrant to obligate funds until the subgrant is made. However, only US Department of Education may approve pre-agreement costs in accordance with the cost principles in 2 CFR part 200, subpart E-Cost Principles.

For many federal education grants, the period of availability is 27 months. Federal education

grant funds are typically awarded on July 1 of each year to the Department of Elementary and Secondary Education (DESE) who is the pass-through agency for education grants in Massachusetts. While the District will always plan to spend all current grant funds within the year the grant was appropriated for, the period of obligation for any grant that is covered by the "Tidings Amendment" is 27 months, extending from the date the application for the funds is submitted and approved by DESE of the fiscal year for which the funds were appropriated through September 30 of the second following fiscal year. This maximum period includes a 15-month period of initial availability, plus a 12-month period for carryover. For example, if the application is submitted and approved by DESE on September 30, 2021 for an FY22 grant, the funds would remain available for obligation through September 30, 2023, per **EDGAR 34 CFR § 76.708 "When certain subgrantees may begin to obligate funds"**

Direct Grants

In general, the period of availability for funds authorized under direct grants is identified in the GAN and our governed by 34 CFR 75.

For both state-administered and direct grants, regardless of the period of availability, the district must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period unless an extension is authorized. 2 C.F.R. § 200.343(b). Any funds not obligated within the period of availability or liquidated within the appropriate timeframe are said to lapse and must be returned to the awarding agency. 2 C.F.R. § 200.343(d). Consequently, the District closely monitors grant spending throughout the grant cycle.

Carryover/Multi-year Delegation:

State-Administered Grants: As described above, the Tidings Amendment extends the period of availability for applicable state-administered program funds. Essentially, it permits recipients to "carryover" any funds left over at the end of the initial 15-month period into the next year. These leftover funds are typically referred to as carryover funds and continue to be available for obligation for an additional 12 months. 34 C.F.R. § 76.709. Accordingly, the District may have multiple years of grant funds available under the same program at the same time.

Once a carryover (Multi-year Delegation GAN) has been received, the Chief Financial Officer, responsible for grants, documents the Grant carryover for another year. The organization code follows these conventions:

- Fund code is the grant fund code.

Direct Grants continued

Grantees receiving direct grants are not covered by the 12-month Tidings period. However, under 2 C.F.R. § 200.308, direct grantees enjoy unique authority to expand the period of availability of federal funds. The district is authorized to extend a direct grant automatically for one 12-month period. Prior approval is not required in these circumstances; however, to obtain this extension, the district must provide written notice to the federal awarding agency at least 10 calendar days before the end of the period of performance specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

Before the grant is set to expire, the Chief Financial Officer and the Grant Liaison will meet with the Financial Manager responsible for grants to review the grant closeout process. If a surplus is anticipated, the Grant Liaison will contact DESE personnel to inquire about the possibility of extending the grant period. If an extension is approved, the Grant Liaison will work with the Administrative Assistant responsible for grants to complete the steps necessary to seek an extension and complete the grant closeout process.

The district will seek prior approval from the federal agency when the extension will not

be contrary to federal statute, regulation, or grant conditions and:

- The terms and conditions of the Federal award prohibit the extension.
- The extension requires additional Federal funds; or
- The extension involves any change in the approved objectives or scope of the project. 2 C.F.R. § 200.308(d) (2).

Program Income

(2 CFR Part 200.1) means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in [§ 200.307\(f\)](#). (See the definition of *period of performance* in this section.) Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also [§ 200.407](#). See also [35 U.S.C. 200-212](#) “Disposition of Rights in Educational Awards” applies to inventions made under Federal awards. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federal awards, the sale of commodities or items fabricated under a federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with federal award funds. Interest earned on advances of federal funds is not program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. 2 C.F.R. § 200.1. Additionally, taxes, special assessments, levies, fines, and other such revenues raised by a recipient are not program income unless the revenues are specifically identified in the federal award or federal awarding agency regulations as program income. Finally, proceeds from the sale of real property, equipment, or supplies are not program income. 2 C.F.R. § 200.307.

Use of Program Income

The default method for the use of program income for the district is the deduction method: 2 C.F.R. § 200.307(e). Under the deduction method, program income is deducted from total allowable costs to determine the net allowable costs. Program income will only be used for current costs unless the district is otherwise directed by the federal awarding agency or pass-through entity. 2 C.F.R. § 200.307(e) (1). The LEA may also request prior approval from the federal awarding agency to use the addition method. Under the addition method, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income must then be used for the purposes and under the conditions of the Federal award. 2 C.F.R. § 200.307(e) (2).

While the deduction method is the default method, the district always refers to the GAN prior to determining the appropriate use of program income.

Procurement System

The district maintains the following purchasing procedures that follow state (MGL Chapter 30B, Chapter 149 and Chapter 30 Section 39M), local, and federal laws and regulations under 2 CFR 200.317-327.

Responsibility for Purchasing

The director of finance and operations is the purchasing agent for the school district and as

such, retains the authority to review and approve all purchases. Marlborough Public Schools requires all requests to purchase goods or services be initiated through the Munis financial system. Principals and district office administrators may request access to the Munis system for their employees. The director of finance and operations, working through the city auditor, provides appropriate access (security) to Munis. Training on the Munis financial system is conducted by the finance and operations grants manager or accounts payable office support.

Requisitions are entered by an approved Munis user. Once released, requisitions are routed to appropriate department head or the building principal or both then to the finance office and finally to the director of finance and operations. Any requisition of over \$5000 is routed to the procurement officer at city hall for review prior to final approval by the director of finance and operations. Approved requisitions are processed into purchase orders. Printed purchase orders are processed grants managers.

On an annual basis, the director of finance and operations and city auditor review the list of authorized Munis users. Additions to and deletions from the list are made as employees are hired and / or terminated by Marlborough Public Schools. All Munis users are set up with budgetary controls in place that prevent a user from processing a requisition more than the budgeted amounts.

The City Procurement Officer is responsible for monitoring purchases to ensure procurement practices are compliant with applicable laws, to develop strategies for improvement, to implement policies and procedures, and to identify potential cost-savings and efficiencies in the procurement process.

Purchase Process

All purchases require a purchase order. In addition to this procedure, sub recipients must also follow both state and local procurement rules. State and local procurement rules are often stricter than federal requirements. Accordingly, this section should be revised to account for the appropriate thresholds and purchasing procedures within each threshold amount in accordance with any state and local procurement rules.

The Marlborough Public Schools utilizes Tyler Technologies (Munis) financial system for the processing of all purchase orders. Access is given to all accounts payable and bookkeeping staff within the Finance Department. Munis access is reviewed by the City Auditor in conjunction with the Director of Finance and Operations. If access is approved, the City Auditor and Director of Finance and Operations discuss the level of security appropriate for the individual. Based on the outcome of this meeting, a security profile is assigned by the City Auditor that oversees Munis accounts.

Once the username and password have been assigned, the grants/accounts payable manager schedules training. Once training is completed, the individual may submit a requisitions / invoice through the following process:

- Submit a requisition/invoice of a good or services to Munis. The requisition will complete an approvals process outlined by each department. the business office for the director of finance and operations approval.
- Each requisition/invoice must contain the vendor name/number, ship to location, quantity, item description, unit price, freight amount, and account code to be charged. The item description must be clear to properly communicate to the vendor the exact item requested and/or service to be performed, and deadlines for delivery and/or completion.

Upon approval the requisition is converted into a purchase order. The purchase order is sent via email to the person/department initiating the order. A copy is maintained by the ordering department as they await receiving good/services and an invoice.

Purchase Methods

State procurement laws (MGL Chapter 30B for Goods and Services and MGL Chapter 149 Construction) are followed however the district is aware of the federal requirements. When there are **exemptions** from state procurement laws, or when federal regulations are stricter the district will use the strictest rules, under 2 CFR 200.318-327. [eCFR :: 2 CFR 200.320 -- Methods of procurement to be followed.](#)

The type of purchase procedures required depends on the cost of the item(s) being purchased. In addition to these rules, subrecipients must also follow both state and local procurement rules. State and local procurement rules are often stricter than federal requirements. Accordingly, this section should be revised to account for the appropriate thresholds and purchasing procedures within each threshold amount in accordance with any state and local procurement rules.

Purchases under \$10,000 (Sound Business Practices) (State and Federal)

Procurement of supplies, services, and construction under \$10,000 are governed by Massachusetts General Law, Chapter 30B for goods and services and Chapter 149 and Chapter 30 section 39 and Chapter 7 Sections 44-58 for construction. The procurement procedure for purchasing supplies and services and construction under \$10,000 require sound business practices. This is defined as ensuring the receipts of favorable prices by periodically soliciting price lists or quotes. No formal advertising is required. The contract is awarded to the vendor offering the best price. A contract cannot exceed three years unless the School Committee authorizes a longer contract period. As a result of the Municipal Modernization Act, building construction procurements under \$50,000 may also be made using a State Contract procured by OSD, or a Blanket Contract procured by the district.

Purchases and Construction between \$10,000 and \$50,000 (Solicit Quotes) (For State MGL30B goods and services procurement exemptions threshold will be \$10,000-\$250,000)

Procurement of supplies and services between \$10,000 and \$50,000 are governed by Massachusetts General Law, Chapter 30B. The procurement procedure for purchasing supplies and services between \$10,000 and \$50,000 requires soliciting three written or oral quotes. The contract is awarded to the responsible and responsive person offering the best price. A responsible vendor is defined as a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance. A responsive bidder is defined as a person who has submitted a bid or proposal which conforms in all respects to the invitation for bids or requests for proposals. For construction, a public notice is required for at least 2 weeks. A written contract is required. A contract cannot exceed three years unless the School Committee authorizes a longer contract period, and a City Council vote is taken as well. For construction, the district adheres to the requirements of Chapter 149, and Chapter 30 Section 39M, and Chapter 7 Sections 44-58 as applicable. See chart from MA OIG. Procurement Charts, July 2018 (mass.gov).

Procurement of building construction contracts estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes from potential contractors. Quote requests must be in written form and well-communicated to each potential vendor. Documentation of quotes solicited must be included in the requisition process.

Procurements made under this section are required to have a notice posted on the district website, in COMMBUYS and in the Central Register unless procured by Blanket Contracts of which the district is eligible to participate. In this case, labor costs on projects of up to \$50,000 may be procured using a Blanket Contract with the solicitation of quotes using a detailed Scope of Services.

In addition, payment bonds in the amount of 50% of the contract price are required for all contracts over

\$25,000. OSHA training and Prevailing Wages are also required.

Purchases of more than \$50,000 (Sealed Bids or Proposals) (For State MGL30B procurement exemptions threshold will be greater than \$250,000)

Sealed Bids (Formal Advertising): Purchases greater than \$50,000 requires publicly solicited bids. A firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. If a Request for Proposal is issued, the most advantageous proposal from a responsible and responsive proposer taking into consideration price and no-price proposals. The sealed bid method is the preferred method for procuring construction if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available.
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally based on price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publicly advertised.
- The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services for the bidder to properly respond.
- All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly.
- A firm fixed price contract award must be made in writing to the lowest responsive and responsible bidder.

Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. Any or all bids may be rejected if there is a sound documented reason. Advertising is required once in a newspaper of general circulation and posted in the Purchasing Office of the City and Business Office for the schools at least two weeks before bids or proposals are due. If goods or services amount to \$100,000 or more, we advertise in the *Goods and Service Bulletin* maintained by the Massachusetts Secretary of State's Office.

Construction contracts solicitation where the estimated cost is over \$150,000 must also include a requirement of DCAMM certification for the general contractor and any subcontractors. A payment bond of one hundred percent (100%), a performance bond of one hundred percent (100%) and a

DCAMM evaluation for all contractors is also required. Filed sub-bids are required for any trade within the construction contract where the estimated cost will be twenty thousand dollars (\$25,000) or more. For building contracts costing over \$150,000 there is also a mandatory DCAMM evaluation process that must be completed by the district at the end of the contract.

Procurements estimated to cost \$10 million or more

In addition to the requirements above, a solicitation where the estimated cost is over \$10 million must also include a prequalification procedure for both general contractors and sub-bidders. This process is required before the actual bidding process can take place; the bidding process is then restricted to only those who have been approved in the prequalification process.

*COMMBUYS – As a result of the Municipal Modernization Act, the Commonwealth’s Operation Services Division (OSD) procures and awards several statewide contracts that are available to municipalities for construction projects under \$50,000. Departments who wish to procure an item or services from an OSD contract may request to be identified as a user on COMMBUYS, OSD’s purchasing portal. Once approved, the COMMBUYS user will have full access to all COMMBUYS contracts and will have the ability to purchase directly through the COMMBUYS portal.

COMMBUYS users will be expected to read the Contract User Guide for the purchase they are attempting to make and shall comply with all terms of use for said contract. Remember that not all contractors listed on COMMBUYS are included on a State Contract. All purchases in COMMBUYS will be subject to confirmation by the CPO prior to approval in the Town’s accounting system.

Go to www.commbuys.com to access contract information, training resources, and buyer information

Competitive Proposals: The process of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
- Proposals must be solicited from an adequate number of qualified sources; and
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

The district may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

Massachusetts General Law, Chapter 30B has additional requirements regarding Requests for Proposals (RFP). The Chief Procurement Officer (Chief Financial Officer in conjunction with City Purchasing Agent), a certified Massachusetts Public Procurement Officer, has authority to conduct procurements. Below are the RFP requirements:

- The procurement office shall determine in writing that the selection of the most advantageous offer requires comparative judgment of factors in addition to price.
- Bidders must submit separate price and non-price proposals.
- Comparative criteria reflect those factors for which Marlborough Public Schools would be willing to pay more money and are used to further evaluate the relative merits of all proposals that meet the quality requirements.
- Quality requirements establish standards of acceptability for the supplies and services you are purchasing.
- Comparative criteria rating factors include highly advantageous, advantageous, not advantageous, and unacceptable.

(Information copied from the Massachusetts Inspector General's Office, Chapter 30B training materials).

In addition, all Invitation for Bid (IFB) and Request for Proposal (RFP) require vendors submitting bids to sign and submit a non-collusion and tax compliance forms.

For construction, the district will adhere to Chapter 149, Chapter 30 section 39 for non-labor construction materials and Chapter 7 Section 44-58. Refer to charts for process requirements [Procurement Charts, July 2018 \(mass.gov\)](#) and attached links to guides for detail process. [Designing and Construction Public Facilities, September 2021 \(mass.gov\)](#), [The Chapter 30B Manual: Procuring Supplies, Services and Real Property, November 2016 \(mass.gov\)](#)

Federal guidance can be found at [eCFR :: 2 CFR Part 200 Subpart D - Procurement Standards](#) and for conditions that must be attached to contracts as applicable, [eCFR :: Appendix II to Part 200, Title 2 -- Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#).

Contract conditions under Uniform Grant Guidance as applicable are as follows:

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, 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 more than \$10,000 must address termination for cause and for convenience by the non-Federal entity including how it will be affected 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 more than 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 more than 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.

(J) See [§ 200.323](#).

(K) See [§ 200.216](#).

(L) See [§ 200.322](#).

Contract/Price Analysis: The District performs a cost or price analysis in connection with every procurement action more than \$150,000, including contract modifications. 2 C.F.R. § 200.324(a). A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements.

The method and degree of analysis is dependent on the facts surrounding the procurement situation; however, the Chief Financial Officer must come to an independent estimate prior to receiving bids or proposals. 2 C.F.R. § 200.324(a).

When performing a cost analysis, Chief Financial Officer may negotiate best pricing as a separate element of the cost. To establish a fair and reasonable profit, consideration is 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. 2 C.F.R. § 200.324(b).

Noncompetitive Proposals (Sole Sourcing) 2 CFR 200.320

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only from a single source.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- After solicitation of several sources, competition is determined inadequate.
- The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold

Under M.G.L. Chapter 30B, sole source procurements of any supply or service under \$50,000 is allowable when there is only one practicable source for the required supply or service.

All sole source procurements must include a memo that details the basis for determining that there was only one practicable source for the purchase. The memo should be sent to the Business

Administrator to be attached to the purchase order. The purchase order will provide the contractor's name, amount of the contract, and a listing of supplies or services procured. The Business Administrator will ensure each sole source contract is appropriate and properly documented.

When procuring with federal funds the district will follow UGG 2 CFR 200.320(c)

Prevailing Wages

The Massachusetts Prevailing Wage Law, and the Davis-Bacon Act, which is the federal prevailing wage law, applies to building and construction activity on public work construction contracts. These two laws require that workers be paid a minimum hourly rate set according to each government agency's assessment of an average wage rate or a predominant wage rate in the local area of the contract work.

Mass DOS determines the "Prevailing Wage Rates" for each public construction contract prior to the beginning of that contract's Bid Process.

U.S. DOL determines its prevailing wage rates for public construction contracts being bid and calls its prevailing wage rate standards "Wage Determinations." U.S. DOL develops federal Wage Determinations for the entire Commonwealth of Massachusetts in documents which contain wage rate breakdowns by work classification, and by Massachusetts county and/or city.

The Davis-Bacon and Related Acts apply to contractors and subcontractors performing on federally funded or federally assisted contracts more than \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or partial funded contracts. The Davis-Bacon Act prevailing wage provisions apply to the "Related Acts," under which construction projects are funded through grants, loans, loan guarantees, and insurance.

If the contract is fully or partially federally funded, the General Contractor and subcontractors must comply with both the Massachusetts and the federal Davis Bacon Act prevailing wage rates.

Therefore, municipalities must pay workers at least a minimum of the higher of the Massachusetts or federal wage rates for each work classification. Some work classifications could be paid based on higher federal wage rates while other work classifications could be paid based on higher Massachusetts wage rates, on the same contract.

Contract Types

There are numerous contract methods allowed at the federal and local levels. Below are contract types that may be used along with contracts that should be avoided.

Contract Types that may be used include (but are not limited to):

Lump sum	Contract for work within a prescribed boundary with a clearly defined scope and total price
Unit price	Work done on an item-by-item basis, with cost determined per unit (e.g., box, cubic yard, etc.)
Cost plus fixed fee	Total known cost with a defined fixed fee added to the price
Inter-governmental agreements	Subrecipients are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services. Using Statewide contracts, you must comply with the contract guide, abide by the specifications of the statewide contract and federal procurement methods thresholds. The Statewide contract price reflects the highest price an approved vendor may charge. You may still negotiate a price. You must follow the specific contract guide guidance and for contracts that require or recommend solicitation, you must follow the guidance to follow federal procurement requirements.

Contract Types that should be avoided are:

Piggyback	<p>Piggybacks are generally ineligible.</p> <p>However, work done using another sub-recipient’s pre-existing, properly procured contract must meet strict criteria to be eligible. The existing contract must be viable (i.e., the same item must be purchased, price and vendor must be the same, and must include written mutual consent of the original contracting parties)</p> <p>Adopting a pre-existing contract solicited and awarded by another entity is referred to as ‘piggy-backing’. These contracts should be avoided as they may not contain all required clauses, are improper in scope, or are not procured in compliance with the federal procurement standards</p>
Time and Materials (T + M)	<p>T + M type contract means a contract whose cost to a non- Federal entity is the sum of (1) the actual cost of materials; and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit [2 CFR 200.318(j)(1)].</p> <p>Use T + M type contracts only after determining that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Last option not recommended by the Federal Government</p>
Cost-plus-percentage-of-costs	Strictly prohibited
Percentage-of-construction-cost	Strictly prohibited

Full and Open Competition [ecfr : 2 CFR 200.319 -- Competition.](#)

All procurement transactions must be conducted in a manner providing full and open competition consistent with 2 C.F.R §200.319. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements,

statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms for them to qualify to do business.
- Requiring unnecessary experience and excessive bonding.
- Noncompetitive pricing practices between firms or between affiliated companies.
- Noncompetitive contracts to consultants that are on retainer contracts.
- Organizational conflicts of interest.
- Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement.
- Any arbitrary action in the procurement process.

The district **negotiate profit** as a separate element of the price of each contract in which there is no price competition and, in all cases, where cost analysis is performed.

Solicitation Language

The district must ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and identify all requirements which the offers must fulfill and all other factors to be used in evaluating bids or proposals. 2 C.F.R § 200.319.

Typically, construction projects are complex and require intricate details that can only be provided from an architect or engineer. Often, drawings are necessary to accompany the specifications for the contractor to be clear on the work to be performed.

The Department must provide, for both vertical and horizontal construction, a highly detailed description of the construction project. Not only should the scope include the specific materials and standards required, but it should also include the qualifications required of the contractor. Qualification requirements should indicate how many years' experience the contracting firm should have, what types of projects the contractor should have worked on to make them qualified to perform the work, and any certifications or licenses that should be retained either by the firm or individuals performing the work.

For all competitive procurements (quotations, bids, proposals), the Chief Procurement Officer and the initiating Department will work cooperatively to prepare the formal solicitation. The following section describes the procedures used by the Procurement Team, and the responsibilities of the initiating Department with respect to preparing, issuing, receiving, awarding, and administering the solicitation and subsequent contract.

It should be noted that all contract management functions are the responsibility of the initiating department(s), including issuing a notice to proceed, receipt and review of certified payroll reports, coordination of change orders, closeout and payment procedures, and subsequent contract evaluations.

Receiving and Evaluating Responses

Unless permission is otherwise granted prior to solicitation, all quotations, bids, and proposals are to be sent to/collected at the address of the chief procurement officer and will be opened in the Procurement Office.

For an IFB, the CPO will receive all bids, and at the time of the bid opening will open, read aloud, and prepare a bid tabulation sheet with the results. The CPO will consider each bidder's responsiveness to the basic requirement. Immediately following CPO review, the Department Head will receive the bids for evaluation.

For an RFP, the CPO is authorized to create an evaluation committee that has the expertise and ability to evaluate, rank, and recommend an award. The CPO will receive all proposals, and at the time of opening will open and prepare a register of proposals. Price proposals will remain unopened at this time. The CPO will then provide the proposals to members of the evaluation committee, including the Department Head. Once the evaluation committee reaches a decision, the CPO will open the price proposals.

The district will document in the contract file the specific methods used in evaluating the procurement and selecting the contractor. The district will use the guidance from the Massachusetts Office of Inspector General in preparing the evaluation methodology.

Handling Late Responses

A late bid or proposal is one that is delivered after the due date and time. If a bid or proposal is late, it must be rejected as non-responsive, and as such will be returned unopened to the person submitting the bid or proposal. Should a bid or proposal be received via USPS/UPS/FedEx or any other courier service, it shall be refused upon attempted delivery. If mailed, it shall be returned unopened. Corrections or modifications to responses are also not accepted beyond the due date and time.

Awarding and Executing Contracts

Once the vendor/contractor has been identified as eligible for a contract, the CPO or designee will draft the contract. In the rare case that the vendor/contractor supplies a contract, the CPO will adapt that contract to the district's format prior to distribution for signatures. There will be five (5) original contracts. The first signature on any contract shall be the vendor/contractor's signature. The CPO will be responsible for corresponding with the vendor/contractor to obtain the appropriate signature. "Notice of Intent to Award" will accompany the contract.

A contract packet will be considered complete when returned from the vendor/contractor with all required documents, which may include insurance certificates, bonds, guarantee, or warranty documents. If any component is missing, the CPO will notify the vendor/contractor.

Upon receiving the Superintendent's signature, the contract is considered fully executed and ready for distribution. One fully executed copy is returned to the vendor/contractor, accompanied by a "Notice to Proceed." One contract will be retained by the Procurement Office; one is provided to the Department Head, and one is provided to the Town Finance Office. Once the contract is executed, the CPO will convert the existing Purchase Requisition to a Purchase Order. If there are any changes to the contract amount, the CPO will correct that amount.

Deciding Tie Bids

On the rare occasion of a tie bid, the district must use a tie-breaking method which is fair to all responders. It will be the policy of the CPO to direct the tie bidders to conduct a "second heat" whereas they will be asked to send an additional response with a new bid form on a date and

time specific.

Change Orders, Amendments and Extensions

Supply and Service Contracts Chapter 30B allows for an increase in the quantity of a supply or service if the increase does not exceed twenty-five percent (25%) of the total contract price. Unit prices cannot be higher than the original unit prices. A contract amendment must be signed by the original signatories.

Contracts for the purchase of heating oil, gasoline, fuel oil, road sand and salt are not subject to the percentage limit but must meet all other requirements stated above.

Construction Contracts

There is no statutory limit on change orders for construction projects; however, recent case law suggests that change orders should not exceed thirty percent (30%) of the original contract. The contractor suggesting the change order shall supply the Department Head with a written explanation of the need for a change, including a detailed cost breakdown of the proposed change.

It is the responsibility of the Department Head to ensure that the change order is, in fact, necessary for completion of the project and that the additional work proposed was not included in the existing specifications and contract. The Department Head should also determine if the requested change is accurate and has value to the overall project.

Emergency Procurements

Emergency Procurements Supplies and Services

The Chief Procurement Officer may approve an emergency procurement when the situation would “endanger the health or safety of the people or property.” In an emergency, a procurement must comply with the law to the greatest extent possible while attending to the emergency.

Any Department Head having an emergency procurement must document the situation and submit in writing to the CPO within one business day of the event. The document must contain:

- The basis for the emergency procurement
- The name(s) of the vendor/contractors used
- The dollar amount committed to the emergency
- List of supplies and/or services procured

Emergency Procurements Building Construction

Prior approval of DCAMM is required on any emergency purchase under the provisions of MGL Chapter 149. The provision states that an emergency is to “preserve the health or safety of persons or property, or to alleviate an imminent security threat.”

Any Department Head having an emergency procurement must document the situation and submit in writing to the CPO immediately for a DCAMM waiver to be submitted in a timely manner.

DCAMM approval may waive public notice or bidding requirements for the work necessary. If the nature of the emergency precludes prior approval, the Town may contract for only the work

that is necessary and seek subsequent approval from DCAMM. Although formal bidding may be waived, the Town should solicit more than one source, if possible, in the time constraint.

Emergency procurements are also subject to the Prevailing Wage Law; therefore, the CPO will apply for prevailing wages as soon as notification of the emergency work is received.

Note: If DCAMM denies the Town's request, work must stop immediately.

You may not artificially create an emergency simply by putting off normal maintenance and repair work. If you knew or should have known that a repair was warranted and you had time to correct it using normal bidding procedures, DCAMM will not allow you to justify the use of emergency procedures.

Bid Splitting

Splitting purchases over several days, weeks, or months is considered "bid-splitting" when the appearance is that this is being done to avoid meeting thresholds which require a more complex procurement. Certain unexpected small expenses sometimes make good business sense and are not problematic. However, to purposely purchase items over time and under the procurement thresholds is illegal.

Geographical Preferences Prohibited

The district must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms given the nature and size of the project to compete for the contract.

Avoiding Acquisition of Unnecessary or Duplicative Items

The district must avoid the acquisition of unnecessary or duplicative items. Additionally, consideration is given to consolidating or breaking out procurements to obtain a more economical purchase. And, where appropriate, an analysis must be made of leases versus purchase alternatives, and another other appropriate analysis to determine the most economical approach.

These considerations are given as part of the process to determine the allow ability of each purchase made with federal funds.

Use of Intergovernmental Agreements-Statewide Contracts

To foster greater economy and efficiency, the district enters into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services. The district will ensure these collaborative purchases were conducted with full competition and are for the specifications and requirements determined by the district. Under MGL Chapter 30B, municipalities may use the Commonwealth of Massachusetts Statewide Contract System. In using the system, the requirements of MGL Chapter 30B are determined to be met per the MA Office of Inspector General. In using this system, the contract must abide by the Statewide contract specifications and the specific Contract Guide for that contract and use the strictest requirements, which will be the UGG 2 CFR 200.320 procurement methods and federal thresholds to determine the steps to be taken. The district will ensure that all intergovernmental agreements were procured in a competitive manner by following the Uniform Grant Guidance (UGG) 2 CFR 200.318-327 Procurement thresholds, procurements from 10,000 to \$250,000 will require at least 2 quotes.

COMMBUYS - The Commonwealth's Operation Services Division (OSD) procures and awards

several statewide contracts that are available to municipalities. Departments who wish to procure an item or services from an OSD contract may request to be identified as a user on COMMBUYS, OSD's purchasing portal. Once approved, the COMMBUYS user will have full access to all COMMBUYS contracts and will have the ability to purchase directly through the COMMBUYS portal.

COMMBUYS users will be expected to read the Contract User Guide for the purchase they are attempting to make and shall comply with all terms of use for said contract. Remember that not all contractors listed on COMMBUYS are included on a State Contract. All purchases in COMMBUYS will be subject to confirmation by the CPO prior to approval.

When using COMMBUYS, the District will adhere to all system requirements, all required terms for specific statewide contracts, and to the terms of their respective user agreements for COMMBUYS.

Go to www.commbuys.com to access contract information, training resources, and buyer information.

Use of Federal Excess and Surplus Property

If surplus property became available, the district would consider the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

Value engineering clauses for construction projects- "value engineering" identifies and reduces nonessential procurement costs. Value engineering enables contractors to change the plans, designs, and specifications for projects to lower their costs for goods and services and maintain necessary quality levels.

Responsible contractor's the district will only award contracts to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also [2 CFR 200.214 - Suspension and debarment. \(govregs.com\)](#) (MGL c 30b, MGL c 149)

Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms under 2 CFR 200.321

The district will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Take all necessary affirmative steps to assure the use of minority businesses, women- owned business enterprises and labor-surplus area firms. See 2 CFR 200.321(b) for what "affirmative steps" must include. Sub-recipients should maintain a list of such firms and can use the [Supplier Diversity Office \(SDO\) | Mass.gov](#) for assistance in complying.

Debarment and Suspension

The district awards contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The district may not subcontract with or award sub grants to any person or company who is debarred or suspended. For all contracts over \$25,000 the district verifies that the vendor with whom the district intends to do business with is not excluded or disqualified. 2 C.F.R. Part 200, Appendix II (1) and 2 C.F.R. §§ 180.220 and 180.300.

Domestic preferences for procurements (relates to construction) 2 CFR 200.322

- “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Maintenance of Procurement Records

The district must maintain records sufficient to detail the history of all procurements. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, the basis for the contract price (including a cost or price analysis), and verification that the contractor is not suspended or debarred.

Please see page 29 for more information on the district’s record policies.

Time and Materials Contracts

The district may use a time and materials type contract only (1) after a determination that no other contract is suitable; and (2) if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract mean a contract whose cost to the district is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the District must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

Settlements of Issues Arising Out of Procurements

The district alone is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the district of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

Protest Procedures to Resolve Disputes

The district maintains protest procedures to handle and resolve disputes relating to procurements and, in all instances, discloses information regarding the protest to the awarding agency. Contract disputes arise from a belief the procurement process was not conducted properly. A vendor has three options to seek a remedy:

- Contact the local jurisdiction.
- Contact the state agency in charge of enforcing the law (i.e., Inspector General's Office for Chapter 30B contracts); and/or
- Superior Court.

If a vendor contacts the district with a complaint regarding the procurement or award of contract, the complaint should be forwarded to the Chief Financial Officer. The Chief Financial Officer and the individual responsible for the contract will offer to meet with the vendor. The meeting should seek all information as to the complaint of the vendor. Once the meeting has concluded, and the

concerns reviewed, the Chief Financial Officer will issue a written report to the complainant with a determination.

If there is a potential error in the way the procurement was conducted, or the district seeks advice on correcting the error, the Chief Financial Officer will ask the advice of the applicable state agency. If the vendor files a complaint in Superior Court, the district will seek the advice of legal counsel.

Conflict of Interest Requirements

Standards of Conduct

In accordance with 2 C.F.R. §200.18(c)(1), the district maintains the following standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the district may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts, unless the gift is an unsolicited item of nominal value. Massachusetts General Law, Chapter 268A, governs the state's conflict of interest law. There are three main provisions of the law:

- Public employees are prohibited from seeking or accepting anything of substantial value for or because of their official acts or any act within their official responsibilities.
- Public employees are prohibited from using or attempting to use their position to obtain for themselves or others unwarranted privileges of substantial value that are not properly available to similarly situated individuals.
- The conflict-of-interest law will require public employees to disclose to their appointing authority the gift and their relationship to the giver.

The Massachusetts State Ethics Commission interprets the conflict-of-interest law and publishes advisories. The Ethics Commission interprets substantial value to mean anything with a value of \$50 or more. Gifts less than \$50 that may have an appearance of a conflict of interest should be disclosed. Disclosures should be made in writing and given to their appointing authority.

Massachusetts defines "immediate family" as spouse, parent, brother, sister, child or a spouse of your parent, brother, sister, or child. The financial disclosure law which, like the conflict-of-interest law, is interpreted and enforced civilly by the State Ethics Commission. Chapter 268B, of the Massachusetts General Law, is the financial disclosure law. This statute requires public officials, political candidates, and certain public employees to disclose their and their immediate family member's private business associations and other financial interests on their Statements of Financial Interests or SFIs. The law covers all elected state and county officials and candidates for these positions as well as all state and county employees who are designated as holding major policymaking positions.

Every municipal employee (with few exceptions) must complete the Ethic Commission's online training program once every two years. New employees must complete the online training program within 30 days of becoming such an employee and once every two years thereafter.

Organizational Conflicts

Marlborough Public Schools personnel will comply with Massachusetts General Law, Chapter 268A conflict of interest law and disclosure. Additionally, the district may not be operated for

the benefit of an affiliated or unaffiliated organization or an individual in his or her own private capacity or individuals related to any employee of the Marlborough Public Schools or members of its management, unless the private benefit is considered merely incidental. The private benefit preclusion will extend to the following:

- The sale, exchange or leasing of property between the district and an affiliated or unaffiliated organization or a private or related individual.
- Lending money or other extension of credit between an agency and an affiliated or unaffiliated organization or a private or related individual.
- Furnishing of goods, services, or facilities between the district and an affiliated or unaffiliated organization or a private or related individual except for the rental of district facilities as specified in the Marlborough Public Schools Committee policy manual.
- Payment of compensation, unless authorized by the Marlborough Public Schools - School Committee, by the district to an affiliated or unaffiliated organization or a private or related individual.
- The transfer to use by, or for the benefit of a private or related individual of the income of assets of Marlborough Public Schools unless specifically voted by the School Committee.
- The district will be guided by the principle of arms-length standards with all affiliated or unaffiliated organizations or with a private or related individual(s). Related party transactions shall include transactions between a school/district and members of the School Committee, administration, employees, related individuals, and affiliated companies. Related individuals within the scope of this definition include spouses, parents, children, spouses of children, grandchildren, siblings, fathers-in-law, mothers-in-law sisters-in-law and brothers-in-law of a school committee member or school district employee.

Disciplinary Actions

All associated entities must comply with the policies and procedures of the district, disciplinary actions will be on an individual basis and based on contract agreements and the Massachusetts State Ethics Commission.

Mandatory Disclosure

Upon discovery of any potential conflict, District personnel will disclose in writing the potential conflict to the federal awarding agency in accordance with applicable federal awarding agency policy.

The district maintains the following oversights to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

The contract manager for the Marlborough Public Schools is the Financial Manager. The contract manager and the individual responsible for the implementation of the contract are responsible for the following:

- Coordinate communications with the vendor.
- Evaluate the qualifications of contract personnel for compliance with contract requirements.
- Determine acceptability of reports and deliverables produced by the contractor.
- Approve or reject contractor payment requests; and
- Ensure the contract amendments are in writing and approved by the Business Administrator.

The business office maintains all contract files. 2 CFR 200.318(b), (h)

Contract Management

The Department Head is responsible for monitoring the progress and performance of any contract for which they are the signatory, including reviewing certified payrolls when connected to a Prevailing Wage project.

All amendments, change orders, or extensions should be initiated by the Department Head and will be approved by the CPO or designee

Department Heads are responsible for tracking the expiration dates of their contracts. The Department Head will notify the CPO at least 90 days in advance of a contract expiration to facilitate a new contract, if necessary.

Department Heads are responsible for providing a copy of any performance review to the Procurement Office, wherever such a review is required by DCAMM.

Department Heads are also responsible for receiving and reviewing certified payroll reports for all projects that are subject to Prevailing Wage Laws. Department Heads should maintain a file for each project which contains the certified payrolls, which is retained for seven (7) years following the completion date of the project. Note: invoices should not be paid until certified payroll is received from the contractor.

Federal awarding agency or passthrough agency review: The district will maintain procurement files for all contracts for review by either the federal awarding agency or DESE.

Credit Cards

The Marlborough Public Schools do not have a credit card that they have access to. The only arrangement for something of this type is our Lowe's account, which essentially is a line of credit provided by that company with a PO that is established to make purchases to them.

Property Management Systems

Property Classifications Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the district for financial statement purposes, or \$5,000. 2 C.F.R. §200.33. [2 CFR 200.313 - Equipment. \(govregs.com\)](#)

Supplies means all tangible personal property other than those described in §200.33 Equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the district for financial statement purposes or \$5,000, regardless of the length of its useful life. 2 C.F.R. §200.94. [2 CFR 200.314 - Supplies. \(govregs.com\)](#)

Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or "peripherals") for printing, transmitting, and receiving, or storing electronic information. 2 C.F.R. §200.20.

Capital assets means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

- Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and
 - Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance). 2 C.F.R. §200.12.

Inventory Procedure

Inventory will be maintained on all information technology hardware and software; textbooks; and fixed assets. The school/department placing an order will add the appropriate ship to address. At the time of receipt, the package is inspected to ensure the ordered materials were received in good order and the items mirror the order placed through the purchase order system. Items are inventoried at the time they are unpacked. Inventory records are inputted by a member of the technology staff (hardware and software), director/department head (textbooks) and the business office (fixed assets).

All technology hardware is tagged. The tags state, "Property of Marlborough Public Schools" and include an asset number and related barcode. The technology department is responsible for configuring all computers, laptops, and iPads.

Inventory Records

For each equipment and computing device purchased with federal funds, the following information is maintained by the grant manager in a spreadsheet:

- Date of purchase.
- Purchase order number.
- Serial number or other identification number.
- Source of funding for the property.
- Who holds title?
- Acquisition date and cost of the property.
- Percentage of federal participation in the project costs for the federal award under which the property was acquired.
- Location, use and condition of the property; and
- Any ultimate disposition data including the date of disposal and sale price of the property.

On an annual basis, the grant manager will review the inventory list and note changes. Changes to the inventory based on property being sold, lost, stolen, or broken will be noted. If the item was stolen, a copy of the police report should be included in the file. The updated inventory spreadsheet should be printed annually and provided to the accountant.

Physical Inventory

A physical inventory of the property must be taken, and the results reconciled with the property records at least once every two years.

Maintenance

In accordance with 2 C.F.R.313 (d) (4), the district maintains adequate maintenance procedures to ensure that property is kept in good condition. Marlborough Public Schools does not place restrictions on computer devices for employees. Employees who are issued a device(s) are responsible for maintaining and securing the equipment. When a device is not working properly, the employee will submit a "school dude ticket". A member of the technology staff will work with the employee to identify and repair the computer as quickly as possible. A loaner computer is available for faculty upon request.

Damaged, Lost, or Stolen Items

The district maintains a control system that ensures adequate safeguards are in place to prevent loss, damage, or theft of the property. Employees issued computer devices are responsible for abiding by our Employee Technology Use Policy that is in our district's Employee Handbook Employees. Staff members are to report missing, damaged or stolen equipment to their supervisor without delay.

Use of Equipment

Equipment must be used in the program or project for which it was acquired if needed, whether the project or program continues to be supported by the federal award. The district will not encumber the property without prior approval of the federal awarding agency and the pass-through entity.

During the time equipment is used on the project or program for which it was acquired, the equipment will also be made available for use on other projects or programs currently or previously supported by the federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by the federal awarding agency that financed the equipment. Second preference is given to programs or projects under federal awards from other federal awarding agencies. Use for non-federally funded programs or projects is also permissible. When no longer needed for the original program or project, the equipment may be used in other activities supported by the federal awarding agency in the following order of priority: (1) activities under a federal award from the federal awarding agency which funded the original program or project; then (2) activities under federal awards from other federal awarding agencies.

Disposal of Equipment

When it is determined that original or replacement equipment acquired under a federal award is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the Chief Financial Officer will contact the awarding agency (or pass-through for a state-administered grant) for disposition instructions. Generally, disposition of equipment is dependent on its fair market value (FMV) at the time of disposition. If the item has a current FMV of \$5,000 or less, it may be retained, sold, or otherwise disposed of with no further obligation to the federal awarding agency. If the item has a current FMV of more than \$5,000, the federal awarding agency is entitled to the federal share of the current market value or sales proceeds.

If acquiring replacement equipment, the district 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. Please refer to the school's Technology Policy and Procedure Manual for further guidance on disposal of surplus property. Surplus property is offered to the sending city and towns.

Written Compensation Policies

[Time and Effort 2 CFR 200.430 - Compensation - personal services. \(govregs.com\)](#)

Time and Effort Standards

All employees who are paid in full or in part with federal funds must keep specific documents to demonstrate the amount of time they spend on grant activities. This includes an employee whose salary is paid with state or local funds but is used to meet a required "match" in a federal program. These documents known as time and effort records are maintained to charge the costs of personnel compensation to federal grants.

Charges to federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

- Be supported by a system of internal controls which provides reasonable assurance that the charges are accurate, allowable, and properly allocated.
- Be incorporated into official records.
- Reasonably reflect total activity for which the employee is compensated, not exceeding 100% of compensated activities.
- Encompass both federally assisted, and all other activities compensated by the district on an integrated basis.

- Comply with the established accounting policies and practices of the district
- Support the distribution of the employee's salary or wages among specific activities or costs objectives.

Time and Effort Procedures

The time and effort after-the-fact certification statement is included on the personnel activity report. The certification must be signed and dated by the employee or supervisor with first-hand knowledge of the employee's work after the work has been completed monthly. The report includes:

- Employer's name.
- Employee's name and identification number.
- Federal program account number.
- Reporting period.
- 100% of work activities; and
- Employee's signature.

For salaried employees funded through a federal grant, the business office generates a semi-annual personnel activity report. The report includes:

- Employer's name.
- Employee's name and identification number.
- Federal program account number.
- Employee's position.
- Reporting period.
- 100% of work activities; and
- Employee's and supervisor's signature.

Reconciliation and Closeout Procedures

It is critical for payroll charges to match the actual distribution of time recorded on the monthly certification documents. Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to federal awards but may be used for interim accounting purposes provided that the system for establishing the estimates produces reasonable approximations of the activity performed.

The entire Grant reconciliation process is conducted by the finance and operations grants manager in conjunction with the director of finance and operations. At the beginning of each grant year, the budget is established that is submitted to the State for approval. This budget tracks each position to be funded by the grants. This sheet is used to track positions being funded. Any variations to this are as the result of the Comparability requirement in the Title I grant. This will create some changes from the initial application submitted to ensure that all schools are comparable across the District for the Marlborough Public Schools. In addition, for multi-year grants, we close salary accounts over multiple years depending on the funding within the grant.

All necessary adjustments must be made such that the final amount charged to the federal award is accurate, allowable, and properly allocated.

Human Resources Policies

The District School Committee policies ensure that personnel compensation costs are spent in accordance with written policies and procedures. Refer to School Committee policy manual, collective bargaining unit contracts and personnel handbook.

Record Keeping

Record Retention

The district maintains in Munis all records that fully show (1) the amount of funds under the grant or subgrant; (2) how the subgrantee uses those funds; (3) the total cost of each project; (4) the share of the total cost of each project provided from other sources; (5) other records to facilitate an effective audit; and (6) other records to show compliance with federal program requirements. 34 C.F.R. §§ 76.730-.731 and §§ 75.730-.731. The district also maintains records of significant project experiences and results. These records and accounts must be retained and made available for programmatic or financial audit.

The district will retain records for a minimum of five (5) years from the date on which the final Financial Status Report is submitted, unless otherwise notified in writing to extend the retention period by the awarding agency, cognizant agency for audit, oversight agency for audit, or cognizant agency for indirect costs. However, if any litigation, claim, or audit is started before the expiration of the record retention period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. 2 C.F.R. § 200.334.

At the state level, records retention is overseen by the Massachusetts Secretary of State's Office (www.mass.gov/sec). The department head of any office that creates, receives, or stores public records must designate a custodian of records. The custodian of records is the point of contact for all public records requests, ensures record security, and follows proper destruction of records protocol.

Maintaining an inventory of records will allow for the identification of records that may be at the end of the retention period. Prior to the destruction of records, a written request must be made to the Supervisor of Records. Once the written request is approved, each district can choose a method of destruction or recycling. Districts are advised to choose the method of destruction carefully especially if employee or student records are involved. The municipal records retention schedule is available on the website at:

<http://www.sec.state.ma.us/arc/arcpdf/MA Municipal Records Retention Manual.pdf>.

Collection and Transmission of Records

Most records may be maintained in either paper or electronic form, based on the current practices in the district. Electronic storage will provide an easier means to share documents upon request i.e., auditors, records inquire, etc. In either case, care must be taken to ensure the materials chosen to create the record will last through the records retention period. Minutes of governmental bodies must be maintained in a paper format. Proper storage of the records is the responsibility of the district. The municipal records retention schedule provides recommended storage standards.

Access to Records

The district provides the awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives the right of access to any documents, papers, or other records of the district which are pertinent to the Federal award, to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the district's personnel for the purpose of interview and discussion related to such documents.

Subrecipient Monitoring

If the district awards sub grants to other entities, it is responsible for monitoring those grant sub recipients to ensure compliance with federal, state, and local laws. Monitoring is the regular and systematic examination of all aspects associated with the administration and implementation of a program. Each program office that awards a sub grant must have its own monitoring policy. This policy must ensure that any monitoring findings are corrected.

Legal Authorities and Helpful Resources

The following documents contain relevant grants management requirements. Staff should be familiar with these materials and consult them when making decisions related to the federal grant.

Procurement Code of Conduct for Food Services

The following conduct will be expected of all persons who are engaged in the awarding and administration of contracts supported by School Food and Nutrition Program Funds.

These written standards of conduct include:

- No employee, officer or agent of the Marlborough Public Schools shall participate in the selection or in the award or administration of a contract supported by program funds if a conflict of interest, real or apparent, would be involved.

Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:

- (1) The employee, officer, or agent.
 - (2) Any member of the immediate family.
 - (3) His or her partner.
 - (4) An organization which employs or is about to employ one of the above.
- The Marlborough Public Schools employees, officers or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.
 - Penalties for violation of the standards of code of conduct of the Marlborough Public Schools School Child Nutrition Program should be:
 - Verbal and/or Written Reprimand by School Administration.
 - Suspension by School Administration.
 - Dismissal/Termination by School Administration.
 - Any legal action necessary.

Procurement Procedures

- The Marlborough Public Schools plan for procuring items for use in the Child Nutrition Program is as follows. The procurement procedures maximize full and open competition, transparency in transactions, comparability, and documentation of all procurement activities.
- If the number of purchases is more than the small purchase Massachusetts threshold of \$50,000 formal procurement procedures will be used as required by 2 CFR 200.318-.326 and MGL 30B Procurement Code and Regulations.
- If the number of purchases is between \$10,001 and \$50,000 informal procurement procedures (small purchase) will be required.
- Micro purchase method will be utilized for any procurement of \$10,000 or less (based upon more restrictive Federal guidelines).

- Because of the potential for purchasing more than \$50,000, it will be the responsibility of the School Business Administrator to document the amounts to be purchased so the correct method of procurement will be followed.

Formal Procurements

When a formal procurement method is required, the following *COMPETITIVE SEALED BID* or *an Invitation for Bid (IFB)* or *COMPETITIVE PROPOSAL* in the form of a *Request for Proposal (RFP)* procedures will apply:

An announcement of an *Invitation for Bid (IFB)* or a *Request for Proposal (RFP)* will be placed in the (Newspaper/media, SFA’s Website, SFA’s Office, COMMBUYS, Goods and Service Bulletin if \$100,000 or greater) to publicize the intent of the School Food Authority to purchase needed items. The advertisement for bids/proposals or legal notice must be published a minimum of 21 days (recommend allowing 4-6 weeks) prior to the time specified in the IFB/RFP for the receipt of bids.

An advertisement is required for all purchases over the small purchase threshold of \$50,000. The announcement (advertisement or legal notice) will contain a:

- general description of items to be purchased
- deadline for submission of questions and the date written responses will be provided including addenda to bid specifications, terms, and conditions as needed
- date of pre-bid meeting, if provided, and if attendance is a requirement for bid award
- deadline for submission of sealed bids or proposals, and
- address of location where complete specifications and bid forms may be obtained.

In an IFB or RFP, each vendor will be given an opportunity to bid on the same specifications.

The developer of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.

The IFB or RFP will clearly define the purchase conditions. The following list includes requirements, not exclusive, to be addressed in the procurement document:

- Contract period
- SFA is responsible for all contracts awarded (statement)
- Date, time, and location of IFB/RFP opening
- How vendor is to be informed of bid acceptance or rejection
- Delivery schedule
- Set forth requirements (terms and conditions) which bidder must fulfill for bid to be evaluated
- Benefits to which the School Food Authority will be entitled if the contractor cannot or will not perform as required
- Statement assuring positive efforts will be made to involve minority and small business
- Statement regarding the return of purchase incentives, discounts, rebates, and credits to the School Food Authority’s non-profit Child Nutrition account
- Contract provisions as required in Appendix II to 2 CFR 200

Contract provisions as required in 7 CFR 210.21(f) for all cost reimbursable contracts
Contract provisions as required in 7 CFR 210.16(a)(1-10) and 7 CFR 250.53 for Food Service Management Company contracts
Procuring instrument to be used are purchase orders from firm fixed prices after formal bidding
Price adjustment clause (tied to a standard index) (Consumer price index, or other as stated in terms and conditions for pricing and price adjustments)
Method of evaluation and type of contract to be awarded – solicitations using an invitation for bid are awarded to the lowest responsive and responsible bidder; requests for proposal are awarded to the most advantageous bidder/offeror with price as the primary factor among factors considered
Method of award announcement and effective date (if intent to award is required by local procurement requirements)
Specific bid protest procedures including contact information of person and address and the date by which a written protest must be received
Provision requiring access by duly authorized representatives of the School Food Authority, State Agency, United State Department of Agriculture, or Comptroller General to any books, documents, papers, and records of the contractor which are directly pertinent to all negotiated contracts
Method of shipment or delivery upon contract award
Provision requiring contractor to maintain all required records for *six* years after final payment and all other pending matters (audits) are closed for all negotiated contracts
Description of process for enabling vendors to receive or pick up orders upon contract award
Provision requiring the contractor to recognize mandatory standards/policies related to energy efficiency contained in the State Energy Plan issued in compliance with the Energy Policy and Conservation Act (PL 94-165)
Signed statement of non-collusion
Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).
Provision requiring “Buy American” as outlined in 7 CFR Part 210.21(d); specific instructions for prior approval of all non-domestic product (s).

- Specifications and estimated quantities of products and services prepared by SFA and provided to potential contractors desiring to submit bids/proposals for the products or services requested.
- If any potential vendor is in doubt as to the true meaning of specifications or purchase conditions, interpretation will be provided in writing to all potential bidders by (Title of person/position) and date specified.
- The School Business Administrator or City’s Procurement Officer will be responsible for securing all bids or proposals.

- The School Business Administrator or City’s Procurement Officer will be responsible to ensure all SFA procurements are conducted in compliance with applicable Federal, State, and local procurement regulations.
- While many criteria will be used in awarding contracts because of bids/proposals, price will hold the highest weight.
 - In awarding an RFP, a set of award criterion in the form of an evaluation sheet will be provided to each bidder in the initial bid document materials. Price alone is not the sole basis for award but remains the primary consideration among all factors when awarding a contract. Following evaluation and negotiations a firm fixed price or cost reimbursable contract is awarded.
- The contracts will be awarded to the responsible bidder/proposer whose bid or proposal is responsive to the invitation and is most advantageous to the SFA, price as the primary and other factors considered. All bids or proposals may be rejected in accordance with law.
- School Business Administrator or City’s Procurement Officer is required to sign on the bid tabulation of competitive sealed bids or the evaluation criterion score sheet of competitive proposals signifying a review and approval of the selections.
- School Business Administrator or City’s Procurement Officer is responsible for reviewing the procurement system to ensure compliance with applicable laws.
- School Business Administrator or City’s Procurement Officer is responsible for documentation the actual product specified is received.
- Any time an accepted item is not available, the School Business Administrator will select the acceptable alternate. The contractor must inform School Business Administrator when a product is not available. In the event a non-domestic agricultural product is to be provided to the SFA, the contractor must obtain, in advance, the written approval of the product. The selected Food Service Management Company must comply with the Buy American Provision.
- The School Business Administrator or City’s Procurement Officer is responsible for maintaining all procurement documentation.

Privacy

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. Marlborough Public Schools protects personal information of both students and employees through regular training and updated policies and procedures. Marlborough Public Schools employees will take regulatory training modules that include:

- Civil Rights.
- Bullying and Cyberbullying.

- Confidentiality of Student Records.
- Sexual Harassment or Discrimination.
- English Language Learners and SEI Endorsement.
- Mandated Report of Suspected Child Abuse.
- Restraint Procedures.
- Conflict of Interest; and
- Readiness and Emergency Management.

The link for these regulatory trainings is: <https://www.mps-edu.org/cms/lib/MA02212715/Centricity/Domain/109/Training%20-%20Mandated%20FY20.pdf>

Education Department General Administrative Regulations (EDGAR)

- <http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>
Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR Part 200)
- <http://www.ecfr.gov/cgi-bin/text->

2 CFR 200 “Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards”

- <http://www.ecfr.gov/cgi-bin/text->

Federal program statutes, regulations, and guidance

- [Offices/Programs by Office – Office of Elementary and Secondary Education](#)
- [603 CMR 10.00: School Finance – Education Laws and Regulations \(mass.edu\)](#)
- Massachusetts Department of Elementary and Secondary Education, Grants Manual: <http://www.doe.mass.edu/grants/procedure/manual.html>
- Massachusetts Department of Early Education and Care Grants: <http://www.mass.gov/edu/birth-grade-12/early-education-and-care/financial-assistance/funding-opportunities/forms-for-grant-recipients/>
- Massachusetts Municipal Records Retention Schedule: [Municipal Records Retention Manual.pdf](#)
- Massachusetts Inspector General’s Office, Chapter 30B Procurement:

<http://www.mass.gov/ig/procurement-assistance/>

- [MA Attorney General FAQ's on Construction](#)
 - [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards | U.S. Department of Education](#)
-

Appendices

Appendix A: Chromebook User Agreement

Appendix B: Disbarment/Suspension Affidavit

Appendix A – Chromebook User Agreement



Marlborough Public Schools

25 Union Street, Marlborough MA 01752

The Marlborough Public Schools is committed to transforming education by preparing today’s students with the skills and abilities necessary to compete in a modern global society. As part of this preparation, students are provided with a district-owned Chromebook device to use as a complement to their classroom instruction.

Students and Parents, please review, sign, and return the following agreement. Marlborough Chromebook

User Agreement

1. I understand that my Chromebook is the property of the Marlborough Public Schools and may be inspected at any time.
2. I understand that the care, including safety and charging of my Chromebook is my responsibility.
3. I understand that my Chromebook is intended for educational purposes and will use it as part of class with permission of my teacher.
4. I will arrive at school daily with my Chromebook charged and ready for use in my classes.
5. I agree that I will not install apps or games to my Chromebook without permission.
6. Should I choose to loan my Chromebook to someone, I am still responsible for the Chromebook.
7. I will immediately notify my administrator’s office in case of the theft or vandalism of my Chromebook.
8. I will keep food and beverages away from my Chromebook.
9. I understand that I am financially responsible for any breakage, loss, or repair of my Chromebook.
10. I understand that if I leave the Marlborough Public Schools my Chromebook must be returned before departure.
11. Parent(s) or Guardian(s) agree to allow this student to use online educational sites and services that have been evaluated and approved by the Marlborough Public Schools for educational purposes in accordance with the site guidelines and MPS Acceptable Usage Policy and that students will adhere to these terms. **

***The Marlborough Public Schools Internet Acceptable Usage Policy is available on the MPS website by clicking on the School Committee’s Policies link on the School Committee drop-down menu.*

I accept the device and all the responsibilities outlined in the policies, the guidelines, and the agreement. I understand that by signing this agreement, I am acknowledging the acceptance of all School Committee network and device policy requirements and responsibilities.

Student Signature

Date

Student Name Printed

Student ID#

I have reviewed and explained to my child the conditions of this agreement.

Parent/Guardian Signature (Required if child is under age 18)

Date

www.mps-edu.org

It is the policy of the Marlborough Public Schools not to discriminate based on race, gender, religion, national origin, color, homelessness, sexual orientation, gender identity, age or disability in its education programs, services, activities, or employment practices.

APPENDIX B: Disbarment/Suspension Affidavit

Debarment Statement

(For consulting agreements >\$25,000)

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS (Executive Order 12549, Debarment and Suspension, 34 CFR
Part 85)

Consultant certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
- (b) Have have not within a three-year period preceding award of this consulting agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- (c) Are are not presently indicted for or otherwise criminally charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in Paragraph (b) above; and
- (d) Have have not within a three-year period preceding award of this consulting agreement had one or more public transactions (Federal, State or Local) terminated for cause or default.

Consultant Signature

Date

Typed or Printed Name

Contractual Agreement No.