MSBA Core Manual
Basic Policy Management Services

Policy DJFA: FEDERAL PROGRAMS AND PROJECTS **Status:** ADOPTED

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The purpose of this policy is to ensure that federally funded programs and projects in the district are administered in accordance with federal laws. Specifically, this policy governs all purchases of property and services using federal funds and reflects federal conflict of interest rules applicable to board members, employees, and agents involved with the selection of contractors and the approval and administration of contracts for federal programs and projects.

Definitions

Agent – A person or entity acting on behalf of the district who is not an employee of the district.

Contract – As used in this policy, a legal instrument by which the district conducts procurement transactions funded by a federal award.

Contractor – A person or entity with which the district has an executed contract to carry out a federal program or project. A contractor does not include an entity with which the district contracts that received a federal award or subaward directly from a federal or state agency.

Gratuity – A favor, gift, or anything of monetary value.

Immediate Family – A spouse or dependent child of a board member, employee or agent or any person living in the household of a board member, employee, or agent.

Labor Surplus Area (LSA) Firm – A business located in a civil jurisdiction, such as a county or city, which is designated as an LSA by the U.S. Department of Labor's Employment and Training Administration.

Federal Programs Administration

Federal programs administration must be in accordance with fiscal guidance for federal programs issued by the Missouri Department of Elementary and Secondary Education (DESE) Division of Financial and Administrative Services, guidance from the federal Office of Management and Budget (OMB), and Title 2 of the Code of Federal Regulations unless otherwise advised by the district's attorney.
The superintendent shall be responsible for coordinating and administering federally funded programs and projects. The superintendent will ensure that the various departments operating these programs and projects do so in accordance with the requirements of the federal award and keep accurate and separate records, as required by board policy and in accordance with administrative procedures. The superintendent may

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delegate one or more duties to appropriate employees.

If the superintendent is not the purchasing officer for the district, the superintendent will work with the purchasing officer to ensure that goods and services purchased through federal awards comply with state and federal requirements.

District employees will not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant, to:

1. A member of Congress or a representative of a committee of Congress;
2. An inspector general;
3. The Government Accountability Office;
4. A federal employee responsible for contract or grant oversight or management at the relevant agency;
5. An authorized official of the Department of Justice or other law enforcement agency;
6. A court or grand jury; or
7. A management official or other employee of the contractor, subcontractor, grantee, subgrantee, or personal services contractor who has the responsibility to investigate, discover, or address misconduct.

Employees who believe that they have been subjected to a prohibited reprisal may submit a complaint to the inspector general of the federal executive agency involved.

Procurement

In addition to following the requirements of state law, board policy, and district procedures, the purchasing officer will ensure that all property and services purchased with federal funds are purchased in accordance with federal law. No purchase will be made unless the purchase was authorized in the approved budget for administration of the grant. Every purchase will be identified in district accounts in accordance with the federal program under which the purchase was made.

Procurement Arrangements Using Strategic Sourcing

When appropriate for the procurement or use of common or shared goods and services, the district may enter into state and local intergovernmental agreements or inter-entity agreements for procurement transactions. These or similar procurement arrangements using strategic sourcing may foster greater economy and

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efficiency. Documented procurement actions of this type (using strategic sourcing, shared services, and other similar procurement arrangements) will meet the federal competition requirements for procurement transactions.

Solicitation of Bids and Proposals

All notices of solicitation of bids and proposals will include notice that the district encourages bids and proposals from minority businesses, women's business enterprises, service-disabled veterans, and labor surplus area firms.

Bids and Requests for Proposals

Bid specifications and requests for proposals will include a clear and accurate description of the technical requirements for the property, equipment, or service being procured and will identify all requirements and all other factors that will be used in evaluating bids or proposals.

The description may include a statement of the qualitative nature of the property, equipment, or service to be procured. When necessary, the description must provide minimum essential characteristics and standards to which the property, equipment, or service must conform. Detailed product specifications should be avoided if possible. When it is impractical or uneconomical to clearly and accurately describe the technical requirements, a "brand name or equivalent" description of features may be used to provide procurement requirements. The specific features of the named brand must be clearly stated. The district must identify any additional requirements the offerors must fulfill and all other factors that will be used in evaluating bids or proposals.

Contractors who develop or draft specifications, requirements, statements of work, or invitations for bids for the district must be excluded from competing on those procurements.

When making purchases with federal funds, the district will:

1. When possible, ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and LSA firms are considered as set forth below. Such consideration means:

    - These business types are included on solicitation lists.
    - These business types are solicited whenever they are deemed eligible as potential sources.
    - Dividing procurement transactions into separate procurements to permit maximum participation by these business types. This provision shall not be used to artificially divide purchases to avoid bidding requirements or design bid specifications to favor a particular provider.
    - Establishing delivery schedules that encourage participation by these business types.

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- Utilizing organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

- Requiring a contractor under federal award to apply this section of this policy to subcontractors.

2. Purchase only items that contain the highest practicable percentage of recovered materials, as defined by the Environmental Protection Agency (EPA), consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000.

3. Procure solid waste management services in a manner that maximizes energy and resource recovery.

4. To the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under federal awards.

5. The district should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable.

6. The district will avoid purchasing unnecessary or duplicate items and will take measures to design procurements to obtain a more economical purchase.

7. The purchasing officer or designee may search state and federal surplus property offerings to determine whether any items the district needs are available at a lower cost without sacrificing quality.

8. The district must perform a cost or price analysis for every procurement transaction, including contract modifications in excess of its simplified acquisition threshold.

Noncompetitive Purchasing

A noncompetitive procurement method may be used only if one of the following circumstances applies:

1. The aggregate cost does not exceed the micro-purchase threshold in DJF-AP1.

2. The procurement transaction can be fulfilled only by a single source.

3. A public exigency or emergency will not permit the delay that would result from providing public notice of a competitive solicitation.

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4. The state or federal awarding entity expressly authorizes noncompetitive procurement in response to a written request submitted by the district.

5. After soliciting several sources, competition is determined inadequate.

Contracts

The district will award contracts only to responsible contractors that possess the ability to perform successfully under the terms and conditions of a proposed contract. The district must consider contractor integrity, public policy compliance, proper classification of employees under the Fair Labor Standards Act, past performance record, and financial and technical resources when conducting a procurement transaction.

Time and Materials Contract

When making purchases using federal funds, the district will not use a time and materials contract unless there is a determination that no other contract is suitable, the district includes a ceiling price that the contractor exceeds at its own risk, and the district oversees the project to ensure efficiency.

Value Engineering Clauses

The district may use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.

Disputes

The purchasing officer or designee will resolve contract and procurement disputes in accordance with good administrative practice and sound business judgment. The purchasing officer is authorized to contact the district's legal counsel for assistance in resolving disputes.

Procurement Records

The district will maintain records sufficient to detail the history of each procurement transaction. These records must include the rationale for the procurement method, contract type selection, contractor selection or rejection, and the basis for the contract price. The district will retain records as required by federal law.

Conflict of Interest

In addition to acting in accordance with Missouri laws governing conflicts of interest and financial disclosures, board members, employees, and agents participating in the procurement of property and services using federal funds must comply with federal requirements. In cases where federal requirements are more restrictive than state requirements, federal requirements will be followed.

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1. Board members, employees, officers, and agents will not participate in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent conflict of interest. Such a conflict of interest would arise when the board member, employee, officer, agent, or any member of their immediate family, their partner, or an organization that 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 an entity being considered for a contract.

2. Board members, employees, officers, and agents will not solicit or accept gratuities, favors, or anything of monetary value from contractors but may accept unsolicited gifts of nominal value. For the purposes of this policy, a gift of nominal value is defined as an unsolicited gift of $25 or less unless otherwise defined by federal law.

3. If the district has a parent, affiliate, or subsidiary organization that is not a governmental entity, the district will develop written standards to avoid conflicts of interest with these related organizations (organizational conflicts of interest). A conflict would exist in situations where the district is unable, or appears to be unable, to be impartial in conducting a procurement action involving the related organization because of the relationship with the organization.

Consequences

Board members, employees, and agents are required to immediately report any violation of this policy to the superintendent or board president. In accordance with federal law, the district will disclose to the state or federal agency that awarded the grant all violations of federal and criminal laws involving fraud, bribery, or a gratuity violation potentially affecting the federal award. The disclosure will be made in writing in a timely manner. The superintendent, designee, or board president will submit information about the violation to the state or federal awarding entity and will contact the district's attorney for assistance in making that report. See 2 C.F.R. §§ 200.113 and .318.

Unless excused by the board, board members who violate the provisions of this policy will be prohibited from holding a board office or representing the full board as an official spokesperson or otherwise. Employees who violate this policy will be disciplined or terminated, and the district will reconsider and potentially end business relationships with agents who violate this policy. In addition, violations of this policy or the laws it references may be reported to law enforcement, the Missouri Ethics Commission, the Attorney General's Office, or DESE and other applicable funding agencies.

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Policy Reference Disclaimer:
These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
§ 162.301, RSMo.	State Statute
§ 170.041, RSMo.	State Statute
§ 171.181, RSMo.	State Statute
§ 285.530, RSMo.	State Statute
§ 292.675, RSMo.	State Statute
§ 393.310, RSMo.	State Statute
§§ 8.675-.687, RSMo.	State Statute
§§ 105.450-.458, RSMo.	State Statute
§§ 34.073-.080, .350.359, .375	State Statute
§§ 432.070-.080, RSMo.	State Statute
§§ 8.285-.291, RSMo.	State Statute
5 C.S.R. 30-4.030	State Regulation

Federal	Description
2 C.F.R. § 180.222, 200.1, .113	Federal Regulation
2 C.F.R. § 200.206, .208, .211-.212, .214	Federal Regulation
2 C.F.R. § 200.302, .305, .307, .309	Federal Regulation
2 C.F.R. § 200.311, .313-.314, .317-.327	Federal Regulation
2 C.F.R. § 200.331, .334, .338, .403-.406	Federal Regulation
2 C.F.R. § 200.413-.414, .430-.432	Federal Regulation
2 C.F.R. § 200.438-.439, .450, .475	Federal Regulation
2 C.F.R. § 200.501, .509-.511, .520	Federal Regulation
20 U.S.C. § 6321	Elementary and Secondary Education Act
20 U.S.C. §§ 1232c, 6321	Federal Statute
34 C.F.R. Part 76.500, .707	Federal Regulation
40 C.F.R. Part 247	Federal Regulation
40 U.S.C. 576A-276A-5	Federal Statute
47 C.F.R. § 54.503	Federal Regulation
7 C.F.R. § 210.16	Federal Regulation

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7 C.F.R. § 210.21	Federal Regulation
7 C.F.R. § 220.16	Federal Regulation

Cross References

Code	Description
BBFA	BOARD MEMBER CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE
BBFA-AF(2)	BOARD MEMBER CONFLICT OF INTEREST AND FINANCIAL DISCLOSURE - (Statement of Substantial Interest)
BCC-1	APPOINTED BOARD OFFICIALS
BCC-2	APPOINTED BOARD OFFICIALS
FEF-1	CONSTRUCTION CONTRACTS BIDDING AND AWARDS
FEF-2	CONSTRUCTION CONTRACTS BIDDING AND AWARDS
GBCA	STAFF CONFLICT OF INTEREST
IGBCB	PROGRAMS FOR MIGRATORY STUDENTS
IGBCB-1-AP(1)	PROGRAMS FOR MIGRATORY STUDENTS - (K–12 Districts)
IGBCB-2-AP(1)	PROGRAMS FOR MIGRATORY STUDENTS - (K–8 Districts)
IGBH	PROGRAMS FOR ENGLISH LEARNERS
IGBH-AF(1)	PROGRAMS FOR ENGLISH LEARNERS - (Lau Plan)

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