

MASSACHUSETTS DEPARTMENT OF ELEMENTARY & SECONDARY EDUCATION
GRANTS MANAGEMENT PROCEDURAL MANUAL

**PROCUREMENT POLICY
OF THE DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
WHEN PURCHASING GOODS AND SERVICES UNDER GRANTS**

Grantees and contractors must comply with relevant federal, state and local laws, regulations and policies when procuring goods and services, including relevant standards for both public and private non-profit entities. Applicable federal and state standards are outlined below.

According to Federal standards there are essentially four methods of procurement:

1. procurement by small purchases;
2. procurement by sealed bids;
3. procurement by competitive proposals; and
4. procurement by noncompetitive proposals.

To understand what type of procurement would be appropriate under specific circumstances, grantees should review the relevant sections of 34 CFR 80.36.

I. GOODS

A. Public Entities (other than state agencies)

State procurement standards for municipalities are outlined under MGL Chapter 30, Section B (Uniform Procurement Act). These are more stringent than the relevant Federal standards in determining a minimum amount above which formal advertising must be conducted for procuring goods. Therefore, the State standard would supersede the Federal standard. However, grantees are advised to review the cited Federal standards to assure: (1) compliance under all circumstances, and (2) the inclusion in contracts of any clauses required by Federal statutes and executive orders and their implementing regulations.

B. Private Non-Profit Entities

Private non-profit entities are not covered under the provisions of MGL Chapter 30B (Uniform Procurement Act), but are subject to the relevant Federal standards. In addition, these standards have been adopted by the Department as reasonable, and must also be applied to State grants.

II. SERVICES

A. Public Entities (other than state agencies)

Under most circumstances procurement of contractual services is subject to the same standards applicable to regular salaried staff. Highlighted below are certain aspects of the requirements:

1. Contractual services shall be procured in a manner to provide, to the maximum extent practicable, open and free competition.
2. In general, formal advertising shall be used as a method to solicit competition of contractual services.

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II. SERVICES

A. Public Entities (other than state agencies) - continued

3. If formal advertising is not used in soliciting of contractual services, the procurement shall be considered a negotiated procurement.
4. Whether contractual services are solicited through formal advertising or through negotiation, the recipient shall:
 - a. assure that the process used as a basis for selecting the contractor was reasonable and appropriate for the type of services solicited;
 - b. maintain a written justification explaining the lack of competition when competitive applications/proposals are not obtained;
 - c. maintain appropriate files and records indicating the basis for awarding the contract to the selected contractor;
 - d. maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee shall participate in the selection, or in the award or administration of a contract supported by grant funds if a conflict of interest, real or apparent, would be involved.
5. Remuneration for contractual services is allowable to the extent that the total compensation is reasonable for the rendered services, conforms to the grantee's established policy, and is consistently applied to similar work in other activities of the grantee. In cases where the kinds of required contractual services are not found in other activities of the grantee compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing grantee competes for the kind of services involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

B. Private Non-Profit Entities

Apply the standards described in II-A above.

NOTE: State agencies must follow the procurement procedures for goods and services developed by the Department of Administration and Finance.