

General Personnel

Employee Ethics; Conduct; and Conflict of Interest

Professional and Appropriate Conduct

All District employees are expected to maintain high standards in their school relationships, to demonstrate integrity and honesty, to be considerate and cooperative, and to maintain professional and appropriate relationships with students, parents, staff members, and others. In addition, the *Code of Ethics for Illinois Educators*, adopted by the Illinois State Board of Education, is incorporated by reference into this policy. Any employee who sexually harasses a student or otherwise violates an employee conduct standard will be subject to discipline up to and including dismissal.

Statement of Economic Interests

The following employees must file a *Statement of Economic Interests* as required by the Illinois Governmental Ethics Act:

1. Superintendent;
2. Building Principal;
3. Head of any department;
4. Any employee who, as the District's agent, is responsible for negotiating one or more contracts including collective bargaining agreement(s), in the amount of \$1,000 or greater;
5. Hearing officer;
6. Any employee having supervisory authority for 20 or more employees; and
7. Any employee in a position that requires an administrative or a chief school business official endorsement.

Ethics and Gift Ban

School Board policy 2:105, *Ethics and Gift Ban*, applies to all District employees. Students shall not be used in any manner for promoting a political candidate or issue.

Prohibited Interests: Conflict of Interest; and Limitation of Authority

In accordance with Section 22-5 of the School Code, "no school officer or teacher shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school with which such officer or teacher may be connected," except when the employee is the author or developer of instructional materials listed with the Illinois State Board of Education and adopted for use by the Board. An employee having an interest in instructional materials must file an annual statement with the Board Secretary.

For the purpose of acquiring profit or personal gain, no employee shall act as an agent of the District nor shall an employee act as an agent of any business in any transaction with the District. This includes participation in the selection, award or administration of a contract supported by a federal award when the employee has a real or apparent conflict of interest as defined by 2 C.F.R.

§200.318(c)(I). Employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to agreements or contracts. Situations in which the interest is not substantial or the gift is an unsolicited item of nominal value must comply with State law and Board policy 2:105, *Ethics and Gift Ban*.

Outside Employment

Employees shall not engage in any other employment or in any private business during regular working hours or at such other times as are necessary to fulfill appropriate assigned duties.

Incorporated

by reference: 5:120-E (Code of Ethics for Illinois Educators)

LEGAL REF.: U.S. Constitution, First Amendment.
2 C.F.R. §200.318(c)(1).
5 ILCS 420/4A-101 and 430/.
50 ILCS 135/.
105 ILCS 5/10-22.39 and 5/22-5.
775 ILCS 5/5A-102.
23 Ill.Admin.Code Part 22, Code of Ethics for Illinois Educators. Pickering v. Board of Township H.S. Dist. 205, 391 U.S. 563 (1968).
Garcetti v. Ceballos, 547 U.S. 410 (2006).

CROSS
REF.:

2:105 (Ethics and Gift Ban), 4:60 (Purchases and Contracts), 5:100
(Staff Development Program)

General Personnel

Administrative Procedure - Statement of Economic Interests for Employees

| Date | Action |
|-----------------------------------|--|
| Upon initial employment | All employees who are required to file a statement of economic interests must file such a statement upon initial employment if employed by May 1. 5 ILCS 420/4A-I05(c). |
| On or before February 1, annually | Superintendent or designee shall certify to the appropriate county clerks a list of names and addresses of employees who are required to file a statement of economic interests. The list shall set out the names in alphabetical order by county of residence. The Superintendent or designee shall send the list to county clerks of the counties in which those employees reside, or if any employee resides outside of Illinois, to the county clerk of the county in which the District's principal office is located. 5 ILCS 420/4A-106. |
| On or before April 1, annually | County clerk of each county shall notify employees whose names have been certified to him or her of the requirements for filing statement of economic interests. 5 ILCS 420/4A-106. |
| On or before May 1, annually | All employees who are required to file a statement of economic interests must file a statement of economic interests with the county clerk of the county in which the principal District office is located (5 ILCS 420/4A-I06), unless he or she has already filed a statement in relation to the District within the calendar year. 5 ILCS 420/4A-105. |
| After January 1, 2011 | <p>Any county clerk who uses a system of Internet-based filing of economic interest statements must: (1) post the contents of statements, without filers' addresses or signatures, that were filed using the Internet on a publicly accessible website, and (2) otherwise comply with 5 ILCS 420/4A-108, amended by P.A. 99-108.</p> <p>The times for the filing of statements of economic interests set forth in Section 4A-105 must be followed in any system of Internet-based</p> |

General Personnel

Administrative Procedure - Employee Conduct Standards

Professional and ethical behavior is expected of all District staff members. The standards listed below serve as a notice of expected conduct. The standards are intended to protect the health, safety, and general welfare of students and employees, ensure the community a degree of accountability within the School District, and define misconduct justifying disciplinary action, up to and including dismissal. The listed standards are not a complete list of expectations, and depending on the factual context, an employee may be disciplined for conduct that is not specifically listed. The conduct standards apply to all District employees to the extent they do not conflict with an applicable collective bargaining agreement; in the event of a conflict, the provision is severable and the applicable bargaining agreement will control. In addition, each educator must comply with 5:120-E, *Code of Ethics/or Illinois Educators*, adopted by the Illinois State Board of Education (23 Ill.Admin.Code Part 22).

All school employees shall:

1. Exhibit positive examples of preparedness, punctuality, attendance, self-control, language, and appearance.
2. Exemplify honesty and integrity. Violations of this standard include, but are not limited to, falsifying, misrepresenting, omitting, or erroneously reporting the professional qualifications of oneself or another individual or information submitted in connection with job duties or during the course of an official inquiry/investigation.
3. Maintain a professional relationship with all students, both in and outside the school and attend all in-service trainings on educator ethics, teacher-student conduct, and school, employee-student conduct for all personnel (105 ILCS 5/10-22.39). Violations of this standard, include but are not limited to: (a) committing any act of child abuse or cruelty to children; (b) engaging in harassing behavior; (c) soliciting, encouraging, or consummating an inappropriate written, verbal, or physical relationship with a student; and (d) furnishing tobacco, alcohol, or illegal/unauthorized substance to any student or allowing a student under his or her supervision to consume alcohol or an illegal/unauthorized substance.
4. Maintain a safe and healthy environment, free from harassment, intimidation, bullying, hazing, substance abuse, and violence, and free from bias and discrimination. Violations of this standard include, but are not limited to: (a) using alcohol or illegal or unauthorized substances when on school property or at school-sponsored events, or whenever engaged in job responsibilities; (b) using or possessing medical cannabis in a school bus or on school grounds; (c) unless specifically permitted by the Firearm Concealed Carry Act, carrying a firearm on or into any District controlled building, real property, or parking area, or any transportation vehicle paid for in whole or in part with public funds; (d) failing to report suspected cases of child abuse or neglect or of gender harassment; (e) knowingly failing to report hazing to supervising educational authorities or, in the event of death or great bodily harm, to law enforcement; and (f) failing to appropriately respond to a witnessed or reported incident of student-on-student bullying, harassment, hazing, or teen dating violence.
5. Comply with the Professional Testing Practices for Educators, prepared and published by the Illinois State Board of Education for educators who administer any standardized test (at www.isbe.net/assessment/pdfs/2014/isat/prof-test-prac14.pdf). This document contains numerous examples of actions that violate test security; actions that must not be part of test

preparation; actions that must not occur during test administration; and actions that must be avoided when reporting test results.

6. Honor the public trust when entrusted with public funds and property by acting with a high level of honesty, accuracy, and responsibility. Violations of this standard include, but are not limited to: (a) misusing public or school-related funds; (b) failing to account for funds collected from students or parents/guardians; (c) submitting fraudulent requests for reimbursement of expenses or for pay; (d) co-mingling District or school funds with personal funds or checking accounts; and (e) using school property without the approval of the supervising school official.
7. Maintain integrity with students, colleagues, parents/guardians, community members, and businesses concerning business dealings and when accepting gifts and favors. Violations of this standard, include but are not limited to, soliciting students or parents/guardians to purchase supplies or services from the employee or to participate in activities that financially benefit the employee without fully disclosing the interest.
8. Respect the confidentiality of student and personnel records, standardized test material, and other information covered by confidentiality agreements. Violations of this standard include, but are not limited to: (a) disclosing confidential information concerning student academic and disciplinary records, health and medical information, family status and/or income, and assessment/testing results, unless disclosure is required or permitted by law; and (b) disclosing confidential information restricted by State or federal law.
9. Demonstrate conduct that follows generally recognized professional standards and attend all in-service trainings on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel (105 ILCS 5/10-22.39). Unethical conduct is any conduct that impairs the employee's ability to function professionally in his or her employment position or a pattern of behavior or conduct that is detrimental to the health, welfare, discipline, or morals of students.
10. Comply with all State and federal laws and rules regulating public schools and School Board policies, including but not limited to: 2:105 (Ethics and Gift Ban), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:50 (Drug- and Alcohol-Free Workplace; Tobacco Prohibition), 5:60 (Expenses), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:120 (Ethics and Conduct), 5:130 (Responsibilities Concerning Internal Information), 5:140 (Solicitations By or From Staff), 5:170 (Copyright), 5:180 (Temporary Illness or Temporary Incapacity), 5:200 (Tenns and Conditions of Employment and Dismissal), 5:230 (Maintaining Student Discipline), 5:280 (Duties and Qualifications), 5:290 (Employment Termination and Suspensions), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:190 (Student Discipline), 7:340 (Student Records), and 8:30 (Visitors to and Conduct on School Property).

Conviction of any employment disqualifying criminal offense listed in Section 5/10-21.9 or 5/21B-80 of the School Code will result in dismissal.

Before disciplinary action is taken, the supervisor will conduct a fair and objective investigation to determine whether the employee violated a standard or other work rule and the extent that any violation impacts educational or operational activities, effectiveness, or efficiency. Discipline must be appropriate and reasonably related to the seriousness of the misconduct and the employee's record. Any applicable provision in a contract, bargaining agreement, or State law will control the disciplinary process.

General Personnel

Exhibit - Code of Ethics for Illinois Educators

Code of Ethics for Illinois Educators, Illinois State Board of Education {23 Ill.Admin.Code §22.20}

a) Responsibility to Students

The Illinois educator is committed to creating, promoting, and implementing a learning environment that is accessible to each student, enables students to achieve the highest academic potential, and maximizes their ability to succeed in academic and employment settings as a responsible member of society. Illinois educators:

- 1) Embody the Standards for the School Support Personnel Endorsements (23 Ill.Adm.Code 23), the Illinois Professional Teaching Standards (23 Ill.Adm.Code 24, 130), and Standards for Administrative Endorsements (23 Ill.Adm.Code 29), as applicable to the educator, in the learning environment;
- 2) Respect the inherent dignity and worth of each student by assuring that the learning environment is characterized by respect and equal opportunity for each student, regardless of race, color, national origin, sex, sexual orientation, disability, religion, language or socio-economic status;
- 3) Maintain a professional relationship with students at all times;
- 4) Provide a curriculum based on high expectations for each student that addresses individual differences through the design, implementation, and adaptation of effective instruction; and
- 5) Foster in each student the development of attributes that will enhance skills and knowledge necessary to be a contributing member of society.

b) Responsibility to Self

Illinois educators are committed to establishing high professional standards for their practice and striving to meet these standards through their performance. Illinois educators:

- 1) Assume responsibility and accountability for their performance and continually strive to demonstrate proficiency and understanding of current trends in both content knowledge and professional practice;
- 2) Develop and implement personal and professional goals with attention to professional standards through a process of self-assessment and professional development;
- 3) Represent their professional credentials and qualifications accurately; and
- 4) Demonstrate a high level of professional judgment.

c) Responsibility to Colleagues and the Profession

The Illinois educator is committed to collaborating with school and district colleagues and other professionals in the interest of student learning. Illinois educators:

- 1) Collaborate with colleagues in their respective schools and districts to meet local and State educational standards;
- 2) Work together to create a respectful, professional, and supportive school climate that allows all educators to maintain their individual professional integrity;
- 3) Seek out and engage in activities that contribute to the ongoing development of the profession;
- 4) Promote participation in educational decision-making processes;

- 5) Encourage promising candidates to enter the education profession; and
- 6) Support the preparation, induction, mentoring, and professional development of educators.

d) Responsibility to Parents, Families and Communities

The Illinois educator will collaborate, build trust, and respect confidentiality with parents, families, and communities to create effective instruction and learning environments for each student. Illinois educators:

- 1) Aspire to understand and respect the values and traditions of the diversity represented in the community and in their learning environments;
- 2) Encourage and advocate for fair and equal educational opportunities for each student;
- 3) Develop and maintain professional relationships with parents, families, and communities;
- 4) Promote collaboration and support student learning through regular and meaningful communication with parents, families, and communities; and
- 5) Cooperate with community agencies that provide resources and services to enhance the learning environment.

e) Responsibility to the Illinois State Board of Education

Illinois educators are committed to compliance with the School Code [105 ILCS 5] and its implementing regulations, and to State and federal laws and regulations relevant to their profession. Illinois educators:

- 1) Provide accurate communication to the Illinois State Board of Education concerning all educator licensure matters;
 - 2) Maintain appropriate educator licensure for employment; and
 - 3) Comply with State and federal laws and regulations.
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General Personnel

Personal Technology and Social Media: Usage and Conduct

Definitions

Includes -Means "includes without limitation" or "includes, but is not limited to."

Social media - Media for social interaction, using highly accessible communication techniques through the use of web-based and mobile technologies to turn communication into interactive dialogue. This includes *Facebook, LinkedIn, MySpace, Twitter, and YouTube*.

Personal technology - Any device that is not owned or leased by the District or otherwise authorized for District use and: (1) transmits sounds, images, text, messages, videos, or electronic information,

(2) electronically records, plays, or stores information, or (3) accesses the Internet, or private communication or information networks. This includes laptop computers (e.g., laptops, ultrabooks, and chromebooks}, tablets (e.g., iPads®, Kindle®, Microsoft Surface®, and other Android® platform or Windows® devices), smartphones (e.g., iPhone®, BlackBerry®, Android® platform phones, and Windows Phone®), and other devices (e.g., iPod®).

Usage and Conduct

All District employees who use personal technology and social media shall:

1. Adhere to the high standards for appropriate school relationships required by policy 5:120, *Ethics and Conduct* at all times, regardless of the ever-changing social media and personal technology platforms available. This includes District employees posting images or private information about themselves or others in a manner readily accessible to students and other employees that is inappropriate as defined by policy 5:20, *Workplace Harassment Prohibited*; 5: 120, *Ethics and Conduct*; 6:235, *Access to Electronic Networks*; 7:20, *Harassment of Students Prohibited*; and the Ill. Code of Educator Ethics, 23 Ill.Admin.Code §22.20.
2. Choose a District-provided or supported method whenever possible to communicate with students and their parents/guardians.
3. Not interfere with or disrupt the educational or working environment, or the delivery of education or educational support services.
4. Comply with policy 5:130, *Responsibilities Concerning Internal Information*. This means that personal technology and social media may not be used to share, publish, or transmit information about or images of students and/or District employees without proper approval. For District employees, proper approval may include implied consent under the circumstances.
5. Refrain from using the District's logos without permission and follow Board policy 5:170, *Copyright*, and all District copyright compliance procedures.
6. Use personal technology and social media for personal purposes only during non-work times or hours. Any duty-free use must occur during times and places that the use will not interfere with job duties or otherwise be disruptive to the school environment or its operation.

7. Assume all risks associated with the use of personal technology and social media at school or school-sponsored activities, including students' viewing of inappropriate Internet materials through the District employee's personal technology or social media. The Board expressly disclaims any responsibility for imposing content filters, blocking lists, or monitoring of its employees' personal technology and social media.

Operational Services

Administrative Procedure • Federal Award Procurement Procedures

The following procedures apply to District procurement under federal awards.

Consult the Board Attorney regarding the legal requirements presented by this administrative procedure as well as before a contract is presented to the Board.

Code of Conduct

Employee Ethics, Conduct, and Conflict of Interest, contain standards of conduct covering conflicts of interest and governing the actions of board members and employees engaged in the selection, award, and administration of contracts.

General Procurement Standards

- A. The District shall avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. **Note:** A conflict between this regulation's requirements and the Illinois Criminal Code of 2012 may exist. See 720 ILCS 5/33E-2(i-5) and 5/33E-18 (prohibits bid stringing; violation is a Class 4 felony) and 720 ILCS 5/33E-3 (prohibits bid rigging, a Class 3 felony).
- B. To foster greater economy and efficiency, the District may enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
- C. The District may use federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- D. The District may use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost. **Note:** A conflict between this regulation's requirements and the Illinois Criminal Code of 2012 may exist. See 720 ILCS 5/33E-2(i-5) and 5/33E-18 (defines and prohibits bid stringing, a Class 4 felony).
- E. The District shall 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. **Note:** State law requires award to the "lowest responsible bidder."
- F. The District shall maintain records sufficient to detail the history of procurement. 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, and the basis for the contract price.
- G. The District may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. **Note:** The Illinois Criminal Code of 2012 (720 ILCS 5/33E-9) requires approval of the Board or designee when a contract cost increases or decreases by \$10,000, a/k/a *change orders*. If a change order will exceed the original contract price by 10%, it must be rebid.
- H. The District shall be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.

Competition

- A. All procurement transactions shall be conducted in a manner providing full and open competition consistent with the standards of State law (105 ILCS 10-20.21) and this section. 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. Situations considered to be restrictive of competition include, but are not limited to:
1. Placing unreasonable requirements on firms in order for them to qualify to do business;
 2. Requiring unnecessary experience and excessive bonding;
 3. Noncompetitive pricing practices between firms or between affiliated companies;
 4. Noncompetitive contracts to consultants that are on retainer contracts;
 5. Organizational conflicts of interest;
 6. 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; and
 7. Any arbitrary action in the procurement process.
- B. The District shall 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. **Note:** State law may also encourage or discourage these preferences. Discuss these with the Board Attorney. See also Doyle Plumbing and Heating Co. v. Bd. of Educ., Quincy Pub. Sch. Dist. No. 112, 291 Ill.App. 3d 221 {4th Dist. 1997}; Cardinal Glass v. Bd. of Educ. of Mendota Comm. Consol. Sch. Dist. 289, 113 Ill.App. 3d 442 (3rd Dist. 1983). Nothing in this section preempts State licensing laws. 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. **Note:** The Board must also follow the Local Government and Professional Services Selection Act(50 ILCS 510/).
- C. Procurement Transactions. All solicitations will:
1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.
 - a. Such description must not, in competitive procurements, contain features which unduly restrict competition.
 - b. 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.
 - c. Detailed product specifications should be avoided if at all possible.
 - d. 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 as a means 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.
 2. Identify all requirements which offerors must fulfill and all other factors to be used in evaluating bids and proposals.
- D. The District shall ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. **Note:** State laws may conflict with this provision. See 105 ILCS 5/10-20.21 and 50 ILCS 510/.
- E. The District shall not preclude potential bidders from qualifying during the solicitation period.

Methods of Procurement

The District shall use one of the following methods of procurement:

- A. Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. To the extent practicable, the District shall distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the Board considers the price to be reasonable. **Note:** See 105 ILCS 5/10-20.21 and sample policy 4:60, *Purchases and Contracts*.
- B. Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.
- C. Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. **Note:** 105 ILCS 5/10-20.21 requires "lowest responsible bidder." The sealed bid method is the preferred method for procuring construction, if the conditions in 2 C.F.R. §200.320(c)(1) apply. If sealed bids are used, the requirements in 2 C.F.R. §200.320(c)(2) apply. **Note:** 105 ILCS 5/10-20.21 requires sealed bids.
- D. Procurement by competitive proposals. The technique of competitive proposal 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 requirements in 2 C.F.R. §200.320(d) apply. **Note:** 105 ILCS 5/10-20.21 requires sealed bids.
- E. Procurement by noncompetitive proposals. 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 circumstances in §200.320(f) apply. **Note:** 50 ILCS 510/ may conflict with this regulation.

Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

The District shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include:

- A. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- F. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (A) through (E) of this section.

Contract Cost and Price

- A. The District shall perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-federal entity must make independent estimates before receiving bids or proposals.
- B. The District shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be 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.
- C. Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the District under Subpart E, Cost Principles, of 2 C.F.R. Part 200.
- D. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

Federal Awarding Agency or Pass-Through Entity Review

The District shall make available, upon request of the federal awarding agency or pass-through entity (ISBE):

- A. Technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition; and
- B. Procurement documents (such as requests for proposals or invitations for bids, or independent cost estimates) for pre-procurement review when one or more of the circumstances in §200.324(b) apply.

Bonding Requirements

- A. For construction or facility improvement contracts or sub contracts exceeding the Simplified Acquisition Threshold⁹ the federal awarding agency or pass-through entity may accept the bonding policy and requirements of the District provided that the federal awarding agency or pass-through entity has made a determination that the federal interest is adequately protected.
- B. If such a determination has not been made, the minimum requirements shall be as follows:
 1. A bid guarantee from each bidder equivalent to five percent of the bid price. The *bid guarantee* must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
 2. A performance bond on the part of the contractor for 100 percent of the contract price. A *performance bond* is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 3. A payment bond on the part of the contractor for 100 percent of the contract price. A *payment bond* is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

Contract Provisions

The District's contracts shall contain the applicable provisions described in Appendix II to 2 C.F.R. Part 200, *Contract Provisions for non-Federal Entity Contracts Under Federal Awards*.
