**Resource Guide: Conducting Procurements with Federal Grant Funds**

**Overview of this Guide**

Procurements using federal grant funds must comply with state local laws and policies and conform to all federal requirements. Districts’ written policies and procedures must reflect state, local and federal provisions and must maximize full and open competition. 2 CFR [§ 200.318 (a)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318#p-200.318(a)) and [§200.319(a)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.319#p-200.319(a)). Federal procurement requirements are found in the [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1), commonly referred to as the Uniform Guidance (UG): [2 CFR §200.317 through §200.327](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d?toc=1). Notably, because federal procurement requires districts to meet all applicable procurement laws (federal, state, and local), **districts will need to comply with the most restrictive rule *for each aspect of its procurement*.** Compliance therefore requires comparison of federal, state, and local requirements for each procurement.

This guide provides districts with a starting point by summarizing the intersection of federal and state procurement laws generally and pointing districts to more detailed information through links to regulations and guidance. Districts will need to consider local/tribal requirements as well as comparing aspects of procurements not covered in this guide (for example, advertising requirements), when conducting their own analysis for specific procurements.

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1. **Basic federal procurement requirements**
* Each district procuring with federal grant funds must have ***written*** procurement procedures that include the following:
	+ The procedures must comport with federal, state, local and tribal (as applicable) procurement regulations. [§200.318](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318).
	+ When federal, state, local and/or tribal procurement requirements conflict, ***districts must choose the most restrictive provision for each aspect of the procurement***. [§200.318](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318).
* Procurement procedures must include conflict of interest provisions. [§200.318(c).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318)
* See additional basic procurement requirements at [§200.318](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318).
* **Additional business and contracting provisions** may applying to procurements;
	+ Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms. [§200.321](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.321).
	+ Preference for domestic purchases. [§200.322](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.322).
	+ Purchases of recycled/recovered materials. [§200.323](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.323).
	+ Price analysis and negotiated profit provisions. [§200.324](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.324).
	+ Bonding requirements for construction. [§200.326](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.326).
	+ Additional required contract provisions are found in [Appendix II to the UG](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200) (see description of these requirements at end of this document)
	+ Construction projects also have additional requirements found at [34 CFR §§75.600-75.617.](https://www.ecfr.gov/on/2020-10-01/title-34/subtitle-A/part-75#p-75.600(a))
1. **Comparing federal and Massachusetts procurement law**
* Federal procurement methods (described below) are based on dollar thresholds, i.e., the total cost of the item/service being purchased. Federal methods include all types of procurement whether for services, goods, or construction.
* State procurement methods, however, are based on the *type of purchase* as well as dollar thresholds: For Goods, Services and Real Estate [(Chapter 30B](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B)), Small Public Works (Non-building) Construction and Construction Materials Contracts ([Chapter 30, § 39M](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M)), Building Construction Contracts ([Chapter 149, §§44A-44J](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section44A)), and Design Services for Public Building Projects ([Chapter 7C, §§ 44-5](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7C/Section44)). There are other project delivery methods for specialized circumstances. See, [*Designing and Constructing Public Facilities* (September 2021)](https://www.mass.gov/doc/designing-and-constructing-public-facilities-september-2021/download).
* Horace Mann Charters must follow state laws and ensure all federal requirements are met for procurement. Non-Profit organizations and Commonwealth Charter schools, to the extent exempt from any state procurement law, are required to follow federal laws.
* In many, but not all instances, state procurement law is more restrictive than federal procurement regulations. This guide provides some examples of procurements where federal law may be more restrictive than state law.
* To ensure your written procurement policies and procedures meet the strictest requirements for purchases with federal dollars, you will need to refer to multiple state laws and compare to federal procurement methods. Ultimately the application of state, federal, and local procurement law will be dictated by the particular circumstances of your procurement.
	+ - 1. **Five Federal Methods of Procurement: [2 CFR §200.320](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320)**

A description of the five federal procurement methods follows.

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| **Category** | **Method** | **Dollar Range** |
| **Informal Procurement Methods** | 1. **Micro-purchase**
 | **$0 - $10,000\*** |
| 1. **Small Purchase**
 | **$10,001 - $250,000\*** |
| **Formal Procurement Methods** | 1. **Proposals**
 | **>$250,000** |
| 1. **Sealed Bids**
 | **>$250,000** |
| **Non-Competitive Methods** | 1. **Non-Competitive**
 | **Not applicable\*\*** |

\**The thresholds for micro-purchases and small purchases (the Small Acquisition Threshold or SAT) may be modified by districts above (for micro-purchases) or below (for SAT) the listed amounts in certain circumstances (see below).*

*\*\*Noncompetitive procurements are often set by circumstances (e.g. sole source) rather than dollar amounts with the exception of micro-purchases.*

1. **Informal Procurement Methods [2 CFR §200.320(a)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320%22%20%5Cl%20%22p-200.320%28a%29)**

Federal procurement regulations recognize two methods of informal procurement – those that fall at or below the micro-purchase threshold (no solicitation of quotes) and those that fall at or below the Simplified Acquisition Threshold (quotations obtained from adequate number of qualified sources).

1. **Method 1: Micro-purchases** [§200.320(a)(1):](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1))
	1. **Quotes:**
		1. No competitive quotes required, but price/rate must be reasonable based on a district’s documented research, experience, purchase history or other documented information. [§200.320(a)(1)(ii).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1)(ii))
		2. Micro-purchases should be distributed equitably among qualified suppliers to the maximum extent practicable. [§200.320(a)(1)(i)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1)(i)).
	2. **Micro-Purchase Threshold:**
		1. The baseline micro-purchase threshold set by the Federal Acquisition Regulation (FAR) is $10,000. [2 CFR §§200.1](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-A/subject-group-ECFR2a6a0087862fd2c/section-200.1) and [200.320(a)(1)(i).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1)(i))
		2. The micro-purchase threshold should be based on your district’s internal controls, an evaluation of risk, and your documented procurement policies. [§200.320(a)(1)(iii).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1)(iii))
		3. Annually, your district may establish a micro-purchase threshold of greater than $10,000 and up to $50,000, *but only if* your district can document that it is 1) qualified as a low-risk auditee [(§200.520)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F/subject-group-ECFRea73e47c9a286e6/section-200.520), 2) conducts an annual internal institutional audit to mitigate and address risks, or 3) a higher threshold is consistent with state law. [§200.320(a)(1)(iv).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1)(iv))
		4. A threshold higher than $50,000 is possible, but requires approval from the United States Department of Education. [§200.320(a)(1)(v).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1)(v))
		5. The micro-purchase threshold must not be prohibited by state law – i.e., the threshold cannot exceed any state threshold for the same type/amount. [§200.320(a)(1)(iii).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1)(iii))
2. **Method 2: Small Purchases** [§200.320(a)(2)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320%22%20%5Cl%20%22p-200.320%28a%29%282%29):
	1. **Quotes**:
		1. Districts must obtain price or rate quotations from an “adequate number of qualified sources *as determined appropriate by the [district*].” (Emphasis added, usually at least 2). [§200.320(a)(2)(i).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(2)(i))
	2. **Threshold:**
		1. Greater than the district’s micro-purchase threshold but less than or equal to the Simplified Acquisition Threshold (SAT).
		2. The SAT should be based on district’s internal controls, an evaluation of risk, and its documented procurement policies (including any local policy for a lower threshold). [§200.320(a)(2)(ii)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(2)(ii)).
		3. SAT is set annually by the district and cannot exceed the amount set by the FAR, which is $250,000. The SAT can be less if allowed by state law. [§200.320(a)(2)(ii)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(2)(ii)).
3. **Potentially conflicting/stricter Massachusetts law for Informal Federal Procurement Methods (Micro-purchase threshold and Small Purchases/SAT):**

For quick comparison, the following chart provides the general bid/quote requirements under Massachusetts law for different types of procurements where federal micro-purchase threshold or small-purchase threshold apply. There are also state requirements for advertising, bidder certification, prequalification, deposit, bonding, prevailing wage, etc. that should be consulted to determine the stricter rule among federal, state, and local procurement procedures. Ultimately, your procurement should be guided your written procurement policies incorporating federal, state and local procurement requirements and laws, your chief procurement officer, and, as necessary, your legal counsel.

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| Type of Purchase | State Law | Provisions potentially conflicting with federal laws | Special circumstances |
| Goods, Services, Real Estate | [Mass. Gen. Laws, ch. 30B](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B) | * <$10,000: Sound business practices (no quotes)
* $10,000 - $50,000: Written scope of work, solicit responses from 3 suppliers
* > $50,000, purchasers must use sealed bids or proposals.
 | * Commonwealth charter schools are not subject to Chapter 30B; they will follow federal procurement methods
* If purchase is an exception to Chapter 30B (i.e., it does not apply), follow federal procurement methods
* See Sole Source Purchases, below
* See Emergency procurements, below
* See Purchasing from statewide contract, below
 |
| Design Services for Public Buildings | [Mass. Gen. Laws, ch. 7C, §§44-58](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7C/Section44) | * Design Fee <$30,000 or Estimated Construction Cost <$300,000, No procurement procedure required.
* Design Fee > $30,000 and Estimated Cost of Construction at least $300,000: Qualifications-based selection process, with set or not-to-exceed fee limit.
 | * See Emergency procurements, below.
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| Building Construction(including Modular Units) | [Mass. Gen. Laws ch. 149, §§44A-44J](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section44A) | * <$10,000: Sound business practices
* $10,000 - $50,000: Written scope of work, solicit responses from 3 suppliers/contractors
* >$50,000 to $150,000: Sealed bids using procedures found in Chapter 30, §39M
* >$150,000: Sealed bids using procedures found in Chapter 149, §44A – 44J
 | * Note that Chapter 149 contains an alternative procurement process for acquisition and installation of modular buildings, found at [Mass. Gen. Laws, ch. 149, § 44E(4).](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section44E)
* See Emergency procurements, below.
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| NonBuilding Construction  | Mass. Gen. [Laws ch. 30, §39M](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M) or [ch. 30B, §5](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section5) | * <$10,000: Sound business practices
* $10,000 - $50,000: Written scope of work, solicit responses from 3 suppliers/contractors
 | * See Emergency procurements, below.
 |
| Construction Materials | [Mass. Gen. Laws ch. 30, §39M](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M) or ch. 30B, §5 | * <$10,000: Sound business practices
* $10,000 - $50,000: Written scope of work, solicit responses from 3 suppliers/contractors
 | * See Emergency procurements, below.
 |

1. **Formal Procurement Methods [2 CFR §200.320(b)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320%22%20%5Cl%20%22p-200.320%28b%29)**
2. **Method 3: Sealed Bids:** [**2 CFR §200.320(b)(1)**](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(1))
	1. **Threshold:**
		1. For procurements greater than the Simplified Acquisition Threshold (SAT, maximum $250,000) [§200.320(b)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b))
		2. Award is in the form of a firm, fixed-price contract (lump sum or unit price) [§200.320(b)(1)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(1))
	2. **Solicitation:** [§200.320(b)(1)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(1))
		1. Bids must be publicly solicited from an adequate number of qualified sources.
		2. Bids must be publicly advertised.
		3. Process must be documented.
		4. Bidders must get sufficient response time before bids are opened.
		5. See other requirements for sealed bids at [§200.320(b)(1](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(1))).
	3. **Basis of Award:** **Lowest Price (Similar to Invitation for Bids (IFB) under Chapter 30B)**
		1. Award to “responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest price.” [§200.320(b)(1).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(1))
		2. Any and all bids can be rejected if reasons are documented. [200.320(b)(1)(ii)(E).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(1)(ii)(E))
3. **Method 4: Proposals (Competitive)** [**2 CFR §200.320 (b)(2)**](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(2))
	1. **Threshold:**
		1. For procurements greater than the Simplified Acquisition Threshold (SAT, maximum $250,000). [§200.320(b)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b))
		2. Award is in the form of a fixed price or cost-reimbursement contract. [§200.320(b)(2)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(2))
	2. **Solicitation**[**:** §200.320(b)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)), [(b)(2)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(2))
		1. Use this method when conditions are not appropriate for use of sealed bids.
		2. Process must be documented.
		3. Requires advertising, including evaluation factors and their relative importance.
		4. Must solicit from an adequate number of qualified offerors.
		5. Attempt to consider all proposals to the maximum extent possible.
	3. **Basis of Award:** **Can Consider Price and Other Factors** [§200.320(b)(2)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(2)), [(b)(2)(iii)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(2)(iii)) **(Similar to Request for Proposals (RFP) under Chapter 30B)**
		1. Requires written method for technical evaluation of proposals and making selections.
		2. Selecting vendor is not restricted to choosing based on price.
		3. Contract “must be awarded to the responsible offeror whose proposal is most advantageous to the [district], with price and other factors considered.” [§200.320(b)(2)(iii)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(2)(iii))
		4. This method may be used for selecting architectural/engineering (A/E) professional services. [§200.320(b)(2)(iv)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(b)(2)(iv))

**Potentially conflicting/stricter Massachusetts law for Formal Federal Procurement Methods (Sealed bids, Proposals):**

For quick comparison, the following chart provides the general bid/quote requirements under Massachusetts law for different types of procurements where the federal sealed bid and proposal methods of procurement apply. There are also state requirements for advertising, bidder certification, prequalification, deposit, bonding, prevailing wage, etc. that should be consulted to determine the stricter rule among federal, state, and local procurement procedures. Ultimately, your procurement should be guided by your written procurement policies incorporating federal, state and local procurement requirements and laws, your chief procurement officer, and, as necessary, your legal counsel.

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| Type of Purchase | State Law | Provisions potentially conflicting with federal laws | Special circumstances |
| Goods, Services, Real Estate | [Mass. Gen. Laws, ch. 30B](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B) | * $10,000 - $50,000: Written scope of work, solicit responses from 3 suppliers\*
* > $50,000, purchasers must use sealed bids or proposals.
 | * Commonwealth charter schools are not subject to Chapter 30B; will follow federal procurement methods
* If purchase is an exception to Chapter 30B (i.e., it does not apply), follow federal procurement methods
* See Sole Source Purchases, below
* See Emergency procurements, below
* See Purchasing from statewide contract, below
 |
| Design Services for Public Buildings | [Mass. Gen. Laws, ch. 7C, §§44-58](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7C/Section44) | * Design Fee <$30,000 or Estimated Construction Cost <$300,000, No procurement procedure required for design services.
* Design Fee > $30,000 and Estimated Cost of Construction at least $300,000: Qualifications-based selection process, with set or not-to-exceed fee limit.
 | * See Emergency procurements, below
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| Building Construction (including Modular Units) | [Mass. Gen. Laws ch. 149, §§44A-44J](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section44A) | * $10,000 - $50,000: Written scope of work, solicit responses from 3 suppliers/contractors\*
* >$50,000 to $150,000: Sealed bids using procedures found in Chapter 30, §39M\*
* >$150,000: Sealed bids using procedures found in Chapter 149, §44A – 44J
* >$10 million: Sealed bids using procedures found in Chapter 149, §44A – 44J but solicit statement of bidder qualifications prior to bid solicitation
 | * Note that Chapter 149 contains an alternative procurement process for acquisition and installation of modular buildings, found at [Mass. Gen. Laws, ch. 149, § 44E(4).](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section44E)
* See Emergency procurements, below.
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| NonBuilding Construction  | Mass. Gen. Laws [ch. 30, §39M](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M) or [ch. 30B, §5](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section5) | * $10,000 - $50,000: Written scope of work, solicit responses from 3 suppliers/contractors\*
* $50,000 or less: Sealed bids using Chapter 30B, § 5 (alternative method)\*
* >$50,000: Sealed bids using Chapter 30, §39M method
 | * See Emergency procurements, below.
 |
| Construction Materials | Mass. Gen. Laws [ch. 30, §39M](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M) or [ch. 30B, §5](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30b/Section5) | * $10,000 - $50,000: Written scope of work, solicit responses from 3 suppliers/contractors\*
* >$50,000: Sealed bids using Chapter 30, §39M method\*
* Any amount: Sealed bids using Chapter 30B, § 5 (alternative method)
 | * See Emergency procurements, below.
 |

\**Unless a districts opt to set their Simplified Acquisition Threshold (SAT) below $50,000, these provisions will likely not apply to procurements using formal federal procurement methods.*

1. **Noncompetitive Procurement [2 CFR §200.320(c)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320%22%20%5Cl%20%22p-200.320%28c%29)**
2. **Method 5: Noncompetitive: Solicitation of a proposal from only one source**
	1. **When it applies (any of the following):**
		1. Micro-purchases. [§200.320(c)(1)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(c)(1))
		2. Item is available from only one source. [§200.320(c)(2)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(c)(2))
		3. Public exigency/emergency not permitting a delay that would be caused by publicizing a competition. [§200.320(c)(3)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(c)(3))
		4. Federal awarding agency or DESE expressly authorizes in writing pursuant to a written request from the district. [§200.320(c)(4)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(c)(4))
		5. After solicitation from a number of sources, competition is determined inadequate. [§200.320(c)(5)](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(c)(5))

**Sole Source Procurements, Purchases from Statewide Contracts, Emergency Procurements, and Procurements Exempt from Chapter 30B: How do state and federal law/regulations apply?**

1. **Sole Source Procurements**

While federal law has no limitations on sole source requirements when properly documented, Chapter [30B, §7](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section7), limits some sole source procurements.

Massachusetts does not require competitive processes for sole-source purchases of goods and services:

1. Up to $50,000.
2. Of any amount for certain educational materials (library books, school textbooks, educational programs, educational courses, educational curricula in any media including educational. software, newspapers, serials, periodicals, audiovisual materials or software maintenance) or water, gas, electricity, sewer or telephone from a regulated industry.
3. For sole source procurements, the district’s procurement officer must determine in writing that only one “practicable source” exists and record his/her reasoning.

**Bottom line:** Except for the listed education and utility purchases that meet one of the federal noncompetitive categories, sole source acquisitions of supplies and services are limited to $50,000 in Massachusetts. Be sure to document your investigation and determination that only one practicable source exists for the required supply or service.

**2. Purchasing from Statewide Contracts: Proper Procurement from Statewide Contracts satisfies Federal Procurement Requirements, reference,**

**Federal Rule: Collective Purchasing Agreement are Encouraged: [2 CFR §200.318(e);](https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf)** [OMB M-21-20,](https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf) *[Memorandum for the Heads of Executive Departments and Agencies](https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf)****[,](https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf)*** [March 19, 2021](https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf)

**“**To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-federal entity is encouraged to enter into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.”

**State Rule: Districts are eligible to participate in many statewide contracts but must adhere to the quote/bid requirements (as well as all other OSD and state requirements) in the Statewide Contract User Guide.**

1. Districts are authorized to make purchases from statewide contracts as allowed by the state purchasing agent. [Chapter 7, Section 22A](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7/Section22A).
2. If a district is eligible to purchase from a statewide contract, complying with the specific rules set forth in the Contract User Guide for the particular statewide contract satisfies Chapter 30B procurement requirements for purchase of goods and services. [Chapter 30B, §1(c).](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section1)
3. Contract User Guides indicate, among other requirements:
* Whether school districts are eligible, and
* Whether multiple quotes are suggested, strongly suggested (usually over $50,000), or required.
1. The Inspector General recommends the following to users of statewide contracts ([*The Chapter 30B Manual: Procurement Supplies, Services and Real Property (2016)*):](https://www.mass.gov/doc/the-chapter-30b-manual-procuring-supplies-services-and-real-property-legal-requirements/download)
* Follow all specific rules of each contract.
* If there are no rules for the goods or services being procured, solicit a quote from each contract vendor and make an award based on lowest price.
* Districts should verify with Massachusetts Operational Services Division ([OSD](https://www.mass.gov/orgs/operational-services-division)) that each vendor is authorized to sell the items being purchased.
* Districts execute their own contracts with the statewide vendor with any additional terms and incorporate the terms of the statewide contract.
* Note that statewide contracts may not be used for construction procurements if the cost of labor or services exceeds $50,000.
* When purchasing from a statewide contract, retain records for the entire process.
1. When using statewide contracts, be sure to consult OSD guidance for [finding](https://www.mass.gov/service-details/find-a-statewide-contract-user-guide) and procuring under each ([Best practices for purchasing from Statewide Contracts | Mass.gov](https://www.mass.gov/service-details/best-practices-for-purchasing-from-statewide-contracts)), as each contract has unique requirements that must be followed.

**Harmonizing federal and state law when purchasing from Statewide Contracts**

|  |  |  |  |
| --- | --- | --- | --- |
| Federal Purchase Threshold | Federal Law | State Law | Bottom Line |
| $0 - $10,000\**\*For purchases* up to the *Micro-Purchase Threshold ($10,000 unless eligible districts have properly adopted a higher threshold up to $50,000 in accordance with* [*§200.320(a)(1)(iv)*](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320#p-200.320(a)(1)(iv))*)* | To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-federal entity is encouraged to enter into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services. **Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements**. [2 CFR §200.318(e) (emphasis supplied).](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318%22%20%5Cl%20%22p-200.318%28e%29) | Follow all the specific requirements of OSD for registering and using statewide contracts as well as the quote/bid procedures and requirements contained in the statewide contract. | For statewide contracts for which districts are eligible, districts that purchase according to all applicable terms and requirements of the statewide contract, state law, and OSD are deemed to have satisfied the competition requirements under federal law. |
| $10,001 - $250,000\**\*Purchases greater than Micro-Purchase Threshold and up to Simplified Acquisition Threshold (SAT, maximum: $250,000)*  |
| >$250,000\**\*For purchases greater than the SAT*  |

1. **Emergency Procurements**

Most Massachusetts procurement statutes contain provisions for noncompetitive procurements in the event of an emergency that would not allow for the time required to comply with applicable procurement procedures. See the Massachusetts Office of the Inspector General’s [*The Chapter 30B Manual: Procurement Supplies, Services and Real Property* (2016)](https://www.mass.gov/doc/the-chapter-30b-manual-procuring-supplies-services-and-real-property-legal-requirements/download) and [*Designing and Constructing Public Facilities* (2021](https://www.mass.gov/doc/designing-and-constructing-public-facilities-september-2021/download)) and applicable individual statutes (see below) for more information.

**Bottom line for emergency procurements:** If districts believe their procurement qualifies as a federal emergency/exigency allowing for a noncompetitive procurement (see Method 5, above), they must then follow any additional requirements for an emergency procurement under Massachusetts law, summarized below.

|  |  |  |  |
| --- | --- | --- | --- |
| Statute | Type of Procurement | Definition of Emergency | Special Procedures |
| [Mass. Gen. Laws, ch. 30B, §8](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section8) | Goods, Services, Real Estate | When time to comply with procurement would endanger the health or safety of people or their property. | * Districts still need to comply with any procurement procedure that is “practicable under the circumstances”
* Procurement officer needs to document details of the procurement and basis for emergency and [submit for publication in the *Goods and Services Bulletin*](http://www.sec.state.ma.us/sprpublicforms/RPSubmissionForm.aspx)*.*
 |
| [Mass. Gen. Laws, ch. 7C, §53](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7C/Section53) | Design Services for Public Buildings | Whenever the health or safety of any persons will be endangered by the applicable designer selection procedures or for compliance with a court or federal agency order. | * Expedited procedures allowed, but OIG recommends allowing as much competition as reasonably possible given the emergency circumstances.
 |
| [Mass. Gen. Laws ch. 149, § 44A(4)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section44A) | Building Construction (including Modular Units) | “Extreme emergency” where work is necessary to preserve the health or safety of persons or property or to alleviate an imminent security threat. | * Prior DCAMM approval required (if not feasible, risk of work stoppage is DCAMM later disapproves). While normal bid procedures will not apply, OIG recommends soliciting as many informal quotes as is feasible and prevailing wage requirements still apply.
* The definition and process for emergencies under ch. 149 construction also applies to acquisition and installation of modular units.
 |
| [Mass. Gen. Laws ch. 30, §39M](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M) or [ch. 30B, §5](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section5) (see above for Chapter 30B emergency provisions) | NonBuilding Construction  | Chapter 30, § 39M: “Extreme emergency” caused by enemy attach, sabotage, other hostile action resulting from imminent security threat, explosion, fire, flood, earthquake, hurricane, tornado or other such catastrophe. | Chapter 30, § 39M: * Written waiver of public notice required from DCAMM.
* Work may be awarded through an emergency contract without competitive bids.
* Emergency contract is limited to temporary repair or restoration to service any and all public work in order to preserve the health and safety or persons or property, not to permanent work.

  |
| [Mass. Gen. Laws ch. 30, §39M](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M) or [ch. 30B, §5](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30b/Section5) | Construction Materials  | Same as for Nonbuilding construction, above. | Same as for Nonbuilding construction, above. |

1. **Exemptions from Mass. Gen. Laws ch. 30B are not automatically exempt from federal procurement law.**

**State law**:

Chapter 30B contains an extended list of goods and services the procurement of which is not subject to Chapter 30B procurement requirements, although these procurements may still be subject to local procurement rules, and districts may elect to follow a Chapter 30B procurement process despite the exemptions. See [Chapter 30B, § 1(b)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section1).

Some exemptions that are common procurements for school systems include:

* Provision of special education direct services and supplies. [§ 1(b)(7)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section1)
* Contracts with health care providers, social workers, and mental health care providers. [§ 1(b)(16)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section1)
* Contracts for professional development. [§ 1(b)(22)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section1)
* Photography services for a public school. [§ 1(b)(31)](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section1)

There are other exemptions for services/goods districts may procure, but the above are examples of those likely to be relevant to most.

**Federal law**:

***Federal law does not recognize these exemptions*** and has no similar list for particular categories of goods and services that are exempt from procurement laws.

**Bottom line:** If a district’s prospective procurement involves federal grant funds and is exempt from Chapter 30B procedures, the district still must follow the applicable federal method of procurement from one of the five methods described above (micro-purchase, small acquisition, sealed bid, proposal, or noncompetitive).

1. **Resources**
	1. **Laws and Regulations**
		1. **Federal**
			1. [2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), Subpart D](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D?toc=1) (procurement standards, [§§ 200.317 – 200.327](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d))[[1]](#footnote-1)
			2. [34 CFR Part 75, Education Department General Administrative Regulations (EDGAR), Direct Grant Programs](https://www.ecfr.gov/current/title-34/subtitle-A/part-75) (requirements for construction using federal funds, [§§75.601-75.615](https://www.ecfr.gov/current/title-34/section-75.600))
			3. [34 CFR Part 76, EDGAR, State-Administered Programs](https://www.ecfr.gov/current/title-34/subtitle-A/part-76) (requirements for construction using federal funds, [§76.600](https://www.ecfr.gov/current/title-34/subtitle-A/part-76#p-76.600(a)))
		2. **State**
			1. [Mass. Gen. Laws, ch. 30B](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30B/Section1)
			2. [Mass. Gen. Laws, ch. 7C, §§44-58](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter7C/Section44)
			3. [Mass. Gen. Laws ch. 149, 44A-44J](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section44A)
			4. [Mass. Gen. Laws ch. 30, §39M](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30/Section39M)
	2. **Guidance**
		1. **Federal**
		2. United States Chief Financial Officers Council, [2 CFR Frequently Asked Questions](https://www.cfo.gov/assets/files/2CFR-FrequentlyAskedQuestions_2021050321.pdf) (May 3, 2021).
		3. United States Department of Education, [*Frequently Asked Questions, Elementary and Secondary School Emergency Relief Program, Governor’s Emergency Education Relief Programs*](https://oese.ed.gov/files/2021/05/ESSER.GEER_.FAQs_5.26.21_745AM_FINALb0cd6833f6f46e03ba2d97d30aff953260028045f9ef3b18ea602db4b32b1d99.pdf) (May 2021), particularly B-6 and B-7 (construction and other contract provisions). C-27 (procurement/emergency procurement).
		4. United States Department of Education, [*Elementary and Secondary School Emergency Relief (ESSER) Program, Use of Funds FAQs, School Construction*](https://oese.ed.gov/files/2021/06/HVAC_Use-of-funds-F06-17-2021.pdf) (June 17, 2021), slide deck.
		5. **State**
			1. [*Charts on Procurement Procedures* (2018)](https://www.mass.gov/doc/charts-on-procurement-procedures-effective-june-15-2018/download)
			2. *[The Chapter 30B Manual: Procurement Supplies, Services and Real Property](https://www.mass.gov/doc/the-chapter-30b-manual-procuring-supplies-services-and-real-property-legal-requirements/download)* [(2016)](https://www.mass.gov/doc/the-chapter-30b-manual-procuring-supplies-services-and-real-property-legal-requirements/download)
			3. [*Designing and Constructing Public Facilities* (2021)](https://www.mass.gov/doc/designing-and-constructing-public-facilities-september-2021/download)
	3. **Websites**
		1. **Federal**
			1. United States Chief Financial Officers Council, [Uniform Guidance Resources.](https://www.cfo.gov/financial-assistance/resources/uniform-guidance.html)
		2. **State**
			1. Office of the Inspector General, [The OIG Public Procurement and Chapter 30B Programs.](https://www.mass.gov/the-oig-public-procurement-and-chapter-30b-programs)
			2. Office of the Inspector General**,** [Public Design and Construction Information](https://www.mass.gov/service-details/public-design-and-construction-information#:~:text=Foremost%2C%20the%20manual%20-%20Designing%20and%20Constructing%20Public,to%20public%20design%20and%20construction%20contracts%20in%20Massachusetts.)
			3. [Buy from a Statewide Contract](https://www.mass.gov/buy-from-a-statewide-contract)
			4. [Best practices for purchasing from Statewide Contracts | Mass.gov](https://www.mass.gov/service-details/best-practices-for-purchasing-from-statewide-contracts)
			5. [Find a Statewide Contract User Guide](https://www.mass.gov/service-details/find-a-statewide-contract-user-guide)

For specific questions on procurement using federal funds, please contact our Audit and Compliance Unit at mailto:audit@doe.mass.edu.

*The contents of this document do not have the force and effect of law and are not meant to bind the public in any way; they are intended only to summarize existing requirements under the law or agency policies.  This guidance should not be used as a substitute for districts’ analysis of their circumstances with respect to federal, state, and local requirements and seeking advice of counsel.*

**Appendix**

**Contract requirements for contracts using federal funds.** *Note that these provisions apply to all contracts being paid with federal funds unless specifically limited by the regulation* **and must be included in the contract terms and conditions as applicable.**

* 1. **Remedies for breach (2 CFR 200, Appendix II(A))**. If the contract amount exceeds $250,000, it must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for sanctions and penalties.
	2. **Termination** **(2 CFR 200, Appendix II(B))**. If the contract amount exceeds $10,000, it must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.
	3. **Equal Employment Opportunity (2 CFR 200, Appendix II(C))**. Any federally assisted construction contract (see [41 CFR §60.1](https://www.law.cornell.edu/cfr/text/41/60-1.3)) must include a equal employment opportunity clause provided in [41 CFR §60-1.4(b)](https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-1/subpart-A/section-60-1.4#p-60-1.4(b)).
	4. **Davis-Bacon Act, Prevailing Wage** **(2 CFR 200, Appendix II(D))**. For all prime construction contracts in excess of $2,000 involving federal funds, districts must include a provision in the contract requiring compliance with the Davis-Bacon Act (payment of federally determined prevailing wages) and related regulations ([40 USC §3141 *et seq*](https://www.dol.gov/whd/regs/statutes/dbra.htm). and [29 CFR Parts 1, 3, 5, 6 and 7](https://www.dol.gov/dol/cfr/Title_29/Chapter_I.htm))**,** as well as the [Copeland “Anti-Kickback” Act](https://webapps.dol.gov/elaws/elg/kickback.htm) (40 USC §3145).

**Tip**: For information on the United States Department of Labor prevailing wages, visit <https://www.dol.gov/whd/programs/dbra/index.htm>. Massachusetts also has prevailing wage requirements for all public construction projects lasting longer than one year. [Mass. Gen. Laws ch. 149, § 27.](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXI/Chapter149/Section27) For information on Massachusetts’ requirements, see the Massachusetts Department of Labor’s [*Topical Outline of Massachusetts Prevailing Wage Law*](https://www.mass.gov/doc/prevailing-wage-topical-index/download) (May 14, 2021).

* 1. **Contract Work Hours and Safety Standards** **(2 CFR 200, Appendix II(E))**. For any contract over $100,000 involving a mechanic or laborer a provision must included for paying these workers pursuant to a 40-hour week and overtime as set forth in the Contract Work Hours and Safety Standards Act, 40 USC §3702, §3704 and 29 CFR Part 5.
	2. **Rights to Inventions** **(2 CFR 200, Appendix II(F)).** Certain contracts made with nonprofit organizations or small business must comply with 37 CFR Part 401 regarding rights to any inventions.
	3. **Clean Air Act** **(2 CFR 200, Appendix II(G)).** If the contract amount exceeds $150,000, it must include clauses requiring compliance with the Clean Air Act and the Federal Water Pollution Control Act.
	4. **Suspension and Debarment**. **(2 CFR 200, Appendix II(H)).** Districts may not contract with any party listed on the governmentwide [exclusions in the System for Award Management (SAM)](https://sam.gov/content/exclusions).
	5. **Anti-Lobbying** **(2 CFR 200, Appendix II(I)).** For contracts exceeding $100,000, districts must require bidders to submit an anti-lobbying certification compliant with the Byrd Anti-Lobbying Amendment (31 USC § 1352).
	6. **Cost/Price Analysis** **(2 CFR § 200.324(a))**. If the contract amount (including contract modifications) exceeds $250,000 (SAT), districts must perform a cost or price analysis.
	7. **Profit Negotiation** **(**2 CFR 200.324(b)). For a contract in which there is no price competition and in all cases where cost analysis is performed, districts must negotiate profit as a separate element of the price.
	8. **Contract Oversight (2 CFR 200.318(b)).** Districts must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
	9. **Conflicts of Interest (2 CFR 200.318(c)(1)).** Districts must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engage in the selection, award, and administration of contracts.
	10. **Bonding Requirements (2 CFR §200.326).** For construction or facility improvement contracts exceeding $250,000 (SAT), DESE may accept the district’s bonding policy and requirements if it determines the Federal interest is adequately protected. If not, districts must require a bid guarantee of 5% of the contract price, a performance and payment bonds of 100% of the contract price.
	11. **Insurance Coverage (2 CFR §200.310).** Districts must insure real property and equipment acquired or improved with federal funds with coverage equivalent to their other property.
	12. **Real Property Acquired or Improved** **(2 CFR §200.310).** Real property acquired or improved with federal funds must be used for its original authorized purpose and may not be disposed of or encumbered. When the property is no longer needed for its original purpose,the district must seek instructions for disposition of the property, which shall be one of three options that compensates or returns the property to USED.
	13. **Other**. Districts should review OMB Standard Forms 24B and D (Assurances for [Non-Construction](https://www.nist.gov/system/files/documents/tip/SF-424b.pdf) and [Construction Programs](https://www.epa.gov/sites/default/files/2020-06/documents/sf424d-v1.1_fill-sign.pdf)) for additional federal requirements that may apply to their construction projects.
1. Note that the Uniform Guidance procurement regulations reflected in this QRG were updated and effective in

November, 2020. USED has taken the position that all grants awarded prior to this date (including ESSER I (CARES Act) are subject to the regulations in effect at the time of award, so [the prior version of UG procurement regulations](https://www.ecfr.gov/on/2020-10-01/title-2/subtitle-A/chapter-II/part-200/subpart-D?toc=1) applies to these grants). Be sure to consult the earlier version of these regulations when procuring using ESSER I funds. [↑](#footnote-ref-1)