Superintendent Procedure 6220SP.A **Definition of Terms, Types of Contracts**

Approved by: <u>s/Dr. Brent C. Jones</u> Date: <u>6/30/22</u>

Dr. Brent Jones, Superintendent



APPLICATION

The District may use all legal alternative procurement methods to obtain materials, equipment, supplies, services, or construction work, including formal bids, informal quotes, Requests for Information, Requests for Proposals, Requests for Qualifications, and Small Works Rosters. Documentation shall be prepared and maintained in all cases where formal bids, competitive quotes, or requests for proposals are not used; the documentation will include an explanation of why different procedures are used.

Definition of Terms

1. **Services Contracts** include Personal Services, Consulting Services, Professional Services, and Contracted Services. Construction, while it is a service, is not considered as such, but is referred to as "work." Contracting for Services is covered further in Procedure 6220SP.D.

Types of Services Contracts:

1a. Personal/Consulting Services

<u>Personal Services</u> contracts represent an agreement between the District and a contractor and relies on the unique skills and experience of the contractor (an independent contractor or firm) to provide professional or technical expertise, perform a service, or render an opinion or recommendation according to the contractor's methods without being subject to the control of the District, except as a result of the work. The services can be contracted to provide a specific study, project, task, or enrichment experience that are not available through existing District employees, District departments, and/or volunteers.

<u>Consulting Services</u> are contracts that are **not** for construction, materials, equipment or supplies, or professional services. This includes consulting services of either a technical or general nature, where the desired result is either written or oral advice or other presentation but is not a tangible product other than paper or a computer printout. It also includes contracted services which are not treated as construction work.

Specific types of personal services contracts include:

- Medical and educational programs for Special Education in hospitals and educational institutions
- After school programs, tutoring programs, community learning centers run by charitable and community organizations
- Attorneys
- Mediators
- Adjudicators
- Facilitators
- Title I Tutors at private schools
- Supplemental education providers
- Musicians, performers, speakers
- Artists in residence
- Professional development trainers
- Professional development programs for private schools
- Interpreters
- 1b. <u>Professional Services</u> include services which are covered by Revised Code of Washington (RCW) 39.80, specifically Architectural and Engineering contracts where the firm is expected to do design work and is required to have a professional license by the State of Washington. Surveyors and landscape architects are included, but construction management services are not included. Architectural or engineering firms are not included when they provide advice but are included when they perform design work. Professional Services are obtained in accordance with procedures required in RCW 39.80 and described in additional detail in Procedure 6220SP.C.
- 1c. <u>Contracted Services</u> pertain to the standardized delivery of services, rather than the unique skills and experience of a contractor. Contracted Services include materials, equipment, and supplies; they involve the delivery of a physical product, such as a computer, food or a desk, and are normally obtained by a purchase order. Purchases are governed by RCW 28A.335.190 and must be bid when the estimated cost meets the thresholds established in state law, except for textbooks.

Other specific types of contracted services include:

- Repairs
- Pest Control
- Elevator Inspection
- Maintenance
- Nonacademic Testing
- Transportation

1d. Information Technology

Includes technology equipment, software, and services. Information Technology is covered in Procedure 6220SP.F.

2. **Construction Work**: This includes the permanent improvement to real estate,

such as buildings and roads or parking lots. It does not include repairs of portions of existing buildings, except where the result is to change the functionality of the building or substantially extend its useful life. For example, the repair of a roof is not construction, but the replacement of the roof would be considered construction. Groundskeeping or planting of trees would not be considered construction, but earth moving or pouring of cement would be considered construction.

Items which are attached to the building but may be readily removed or are expected to be replaced in a few years, are "fixtures," not construction work. Fixtures would include window coverings and bolted in cabinets, but not flooring or built-in cabinets, which would be considered construction work. Purchase and installation of a playscape would be considered an equipment purchase. In general, the test is whether the item may be removed without impairing the functionality of the building. If a contract is not for construction, it is considered either an equipment contract or a services contract.

Construction work requires payment of prevailing wages, retention or bonds, whereas purchase and installation of equipment does not. Construction contracts are covered by RCW 28A.335.190. See Procedure 6220SP.F.

- 3. **Emergency Work:** Grants an exemption from the bidding requirements in certain circumstances. See Board Policy 6221.
- 4. **Small Works**: This applies to Construction Work, up to thresholds as established in RCW 39.04.155: Small works roster contract procedures—Limited public works process—Definitions. (wa.gov). Small works contracts as defined in state law may be competed under the Small Works Roster or bid according to the regular construction procedures. Refer to Board Policy No. 6222, Selection of Contractors for Small Construction Projects, for further guidance.
- 5. **Interlocal Agreements**: Interlocal Agreements are contracts between the District and other Washington State agencies, other institutions of education, a unit of local government, another state, the federal government, or a quasi-government entity such as KCDA, WSIPC, or NASPO. These are governed by the Interlocal Cooperation Act, RCW 39.34. See Procedure 6220SP.F.
- 6. **Sole Source**: Sole source purchases are a) purchases that are clearly and legitimately limited to a single source of supply, or b) purchases involving special facilities or market conditions as governed by RCW 39.04.280.
- 7. **Aggregate Services or Purchases of Goods**: Services or purchases of goods that are similar in nature procured at approximately the same time are considered a single action for monetary value approval purposes.
- 8. **Initiator**, **Review**, **Approval and Execution**: Defines staff position authorizations for review, approval and execution of contracts.
 - 8a. <u>Initiator</u>: The individual employee who desires to acquire the item or service. Responsible for preparing the contract document or agreement, providing information as required, securing budget approval, demonstrating sound business

practices, complying with all legal/statutory requirements, and working with appropriate departments to obtain competition and finalize the contract.

8b. <u>Review/approval</u>: Indicates the employee reviewing and approving the contract or agreement certifies compliance with District policies and legal/statutory requirements. <u>Review/approval does not bind the District to the contract or agreement</u>.

8c. <u>Execute</u>: Authorized employee signing the contract binds the District to the contract agreement.

Refer to 6220SP.B, Attachment 1 for further information.

Where there is uncertainty as to which category a particular contract falls into, consult with the Legal Department.

Approved: February 2012 Revised: June 2022

Cross Reference: Board Policy No. 6220