



Procurement Contract Submission and Conflict of Interest Policy	
<b>ADOPTION/EFFECTIVE DATE:</b>	<b>MOST RECENTLY AMENDED:</b>
May 17, 2014 September 15, 2014 (revised) November 21, 2016 (revised) April 23, 2018 (revised)	May 20, 2019
<b>LEGAL AUTHORITY:</b>	
As cited in the policy.	

## I. Legal Requirements and Authority

The School Reform Act, D.C. Code § 38-1800 *et seq.* (“SRA”), requires that Procurement Contracts, as defined below, be bid competitively. The SRA also requires that the school submit to the DC Public Charter School Board (DC PCSB) within three business days<sup>1</sup> after the procurement contract is awarded: (1) all bids for the contract received by the school, (2) the name of the contractor who is awarded the contract, and (3) the rationale for the award of the contract.<sup>2</sup>

When a school enters into a Conflicting Interest Contract, the SRA requires that: (1) the contract be fair, (2) the nature of the conflict be disclosed to the Board of Directors, (3) the contract be approved by a majority of disinterested directors, and (4) the contract be reported to DC PCSB within three business days after the contract is approved.<sup>3</sup>

The SRA also provides that DC PCSB may require a public charter school to produce documents that DC PCSB deems necessary to carry out its functions.<sup>4</sup> As such, DC PCSB may require the submission of additional documents including the procurement contract itself.

<sup>1</sup> Business days include Monday through Friday except for legal holidays. The day of submission is excluded as a business day. If the last day of the period falls on a Saturday, Sunday, or legal holiday, the period continues until the end of the next day that is not a Saturday, Sunday, or legal holiday.

<sup>2</sup> D.C. Code § 38-1802.04(c)(1)(B)(i)

<sup>3</sup> D.C. Code § 38-1802.04(c)(1A)

<sup>4</sup> D.C. Code § 38-1802.11(a)(2)

This policy is only applicable to public charter schools that receive local funding; schools in their pre-opening year(s) (i.e., the time between conditional charter approval and their first year of academic operations) need not comply, so long as no portion of the contract shall be paid for with local funds. Schools in their pre-opening year must nonetheless comply with all other legal requirements including the conflict of interest provisions found in the DC Nonprofit Corporation Act.<sup>5</sup>

## II. Definitions

An *Alternative Selection Process Contract* is a Contract having an aggregate value equal to or exceeding \$25,000 over the course of any fiscal year that meets the criteria listed in Section VII of this document.

The *Award Date* of a Contract is the date that the school chooses which vendor or bid to accept. The Award Date may be documented through a signed contract, a letter of award, or some other written memorandum of the selection.

A *Conflicting Interest Contract* is a Contract, for any amount, between a public charter school and:

- (a) An individual who is a founder of the public charter school, or who is a current or former trustee, director, member, member of a designated body, officer, or key personnel of the public charter school;
- (b) A family member<sup>6</sup> of any of the individuals identified in (a) of this definition;
- (c) An entity identified as submitting a petition to establish the public charter school pursuant to the Act;<sup>7</sup>
- (d) An entity in which an individual identified in (a) of this definition serves as a member of the board of directors or has a financial interest;<sup>8</sup> or
- (e) An entity in which a family member of an individual identified in (a) of this definition serves as a member of the board of directors or has a financial interest.

A *Contract* means any agreement, contract, license, lease, commitment, arrangement or understanding, written or oral. Employment contracts, including temporary staffing agency contracts, are not considered Contracts for the purpose of this policy.

A *Contract Submission Data Form* is an online form which requests schools respond to specific questions and to submit only the required information/contract documents based

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<sup>5</sup> D.C. Code § 29-406.70

<sup>6</sup> "Family member" means an individual who is legally or biologically related to another individual, or an individual who is legally or biologically related to the spouse or domestic partner of another individual. See D.C. Code § 38-1802.04(c)(1A)(G)(i).

<sup>7</sup> D.C. Code § 38-1802.02(13)

<sup>8</sup> A "Financial Interest" is one that reasonably may impair the objectivity of the person's judgment when participating in the action authorizing the contract. See D.C. Code § 29-306.70(4). For the purposes of this policy, a financial interest shall include, but not be limited to, employment or a five percent or greater ownership interest in a company.

on the answers provided. The Contract Submission Data Form includes a written justification for the Contract award.

A *Cooperative Purchasing Agreement* is a Contract where a lead agency or organization has competitively bid a master contract on behalf of multiple public agencies and nonprofit organizations.

A *Disinterested Director* is any director who does not have a conflict of interest with regard to a specific Contract. A conflict of interest exists when (1) the director is a party to the contract, (2) a family member of the director is a party to the contract, (3) the director serves on the board of directors or has a financial interest in a party to the contract, or (4) a family member of the director serves on the board of directors or has a financial interest in a party to the contract.

An *Effective Date* is when a Contract becomes enforceable.

An *Emergency* is an unexpected situation requiring prompt action, involving circumstances that will severely impact the operation of the school, the condition of its facility, or the health and/or safety of its students, employees, or visitors.

An *Emergency Contract* is a Contract entered into in an Emergency.

An *Execution Date* is the date as of which both parties have signed the contract.

An *Exempt Procurement Contract* is a contract having an aggregate value equal to or exceeding \$25,000 over the course of any fiscal year that does not have to be competitively bid, but which must be submitted to DC PCSB and is subject to conflict of interest provisions. A list of *Exempt Procurement Contracts* may be found at section VI.

A *Non-Bidding Vendor* is a vendor of a good or service who does not respond to a school's Request for Proposal but whose prices, terms, and conditions are made publicly available.

A *Non-Procurement Contract* is a contract that does not have to be competitively bid and does not have to be submitted to DC PCSB, but is subject to conflict of interest provisions. A list of *Non-Procurement Contracts* may be found at section V.

A *Procurement Contract* is a Contract obligating the seller to furnish either supplies or services or both, having an aggregate value equal to or exceeding \$25,000 over the course of any fiscal year.<sup>9</sup> Procurement Contracts may include agreements signed by the school

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<sup>9</sup> See D.C. Code § 38-1802.04(c)(1); 32 C.F.R. § 37.1330; 48 C.F.R. § 2.101. Because each Procurement Contract is a separate transaction, the aggregate value of the contract should be assessed at the time the transaction commences – not by the number of transactions with a specific vendor. The analysis is prospective. Transactions that are broken up to avoid the \$25,000 bidding threshold will not comply with this policy's requirement that contracts valued at \$25,000 or greater must be bid, unless another exemption applies.

and the vendor; awards and notices of awards; job orders and task letters issued under basic ordering agreements; and orders, such as purchase orders. In cases where a single vendor is engaged for multiple scopes of work, each scope of work is considered a separate Procurement Contract for the purposes of compliance with this policy, but may be governed by a single master contract between the vendor and the school.

A Procurement Contract may be renewed at the school's discretion. Procurement Contracts are any Contract that is neither a "Non-Procurement Contract," nor an "Exempt Procurement Contract," nor an "Alternative Selection Process Contract."

*Self-Dealing* is the conduct of a trustee, senior school leader, or other fiduciary that consists of taking advantage of his or her position in a transaction and acting for his or her own interests rather than for the interests of the school.

A *Sole Source Contract* is a Procurement Contract for which a school has identified only one responsible source.

The *Submission Date* is the date when a school has submitted all required documentation, with the exception of the executed contract, for a Procurement Contract, an Exempt Procurement Contract, or an Alternative Selection Process Contract.

### **III. Types of Contracts**

There are four types of contracts covered in this policy:

- Procurement Contracts, which must be bid through an RFP process and for which documentation must be submitted to DC PCSB;
- Non-Procurement Contracts, which generally neither have to be bid nor submitted to DC PCSB;
- Exempt Procurement Contracts, which do not have to be bid but must be submitted to DC PCSB; and,
- Alternative Selection Process Contracts, which contain unique requirements.

Additionally, any of the four types of Contract above may also be a Conflicting Interest Contract. All Conflicting Interest Contracts, of any type or amount, must comply with section VIII of this policy.

### **IV. Procurement Contracts**

#### *A. Bidding Requirements*

To bid a Procurement Contract, a school must publish a notice of request for proposals (an "RFP") in (a) the D.C. Register; and (b) two newspapers of general

circulation. Newspapers may be print or online publications. Schools are not required to receive a specific minimum number of bids.

The school must wait at least seven business days from publication prior to awarding the contract. The day the award is made shall be the Award Date.

The school should select a vendor using its own criteria. Schools do not need to select the lowest-priced vendor, but should be clear about the criteria used in the selection.

#### *B. Non-Bidding Vendors*

After publishing an RFP, a school may consider a price quote from a Non-Bidding Vendor as if the quote were a proposal. Considering price quotes from Non-Bidding Vendors does not relieve the school from the obligation to publish an RFP so that all possible vendors have the opportunity to respond. If the school considers a price quote from a Non-Bidding Vendor, it shall consider that quote to be a bid for the purpose of determining whether to submit the quote to DC PCSB.

#### *C. Submission Requirements*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- Contract Submission Data Form
- The RFP used to solicit the goods or services
- Evidence that the RFP was noticed publicly, including, as applicable, the posting in the DC Register and newspapers of general circulation
- All bids received in response to the RFP, including quotes from non-bidding vendors

Within 30 calendar days of the Execution Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- The executed Contract

Procurement Contracts that are also Conflicting Interest Contracts are subject to the submission requirements listed in Section VIII.

Schools may be required to submit Procurement Contracts and the associated documentation as part of other DC PCSB compliance processes and DC PCSB retains the right to require submission of these documents pursuant to its authority under D.C. Code § 38-1802.11(a)(2).

#### *D. Effective Date*

No Procurement Contract is enforceable or considered valid prior to the Effective Date. The Effective date of a Procurement Contract is ten business days after the Submission Date or the effective date specified in the Contract, whichever is later.<sup>10</sup> Procurement Contracts must not include Effective Dates which are less than 10 business days from the Submission Date.

### **V. Non-Procurement Contracts**

The following types of contracts are considered Non-Procurement Contracts:

- Contracts for the lease or purchase of real property
- Loan agreements
- Contracts with a value of under \$25,000 per year
- Contracts with an initial value of \$25,000 per year or less, whose total annual value unexpectedly exceeds \$25,000
- Management contracts, provided that the management relationship is disclosed in the school's charter agreement and that any modifications to such contracts, as well as any additional contracts or payments to the management company, are promptly disclosed to DC PCSB<sup>11</sup>

#### *A. Bidding Requirements*

Schools are not required to conduct an RFP for Non-Procurement Contracts. However, for contracts with an initial value of \$25,000 per year or less, whose total annual value unexpectedly exceeds \$25,000, schools must bid out these services the following year unless the unexpected expenditures were due to an emergency (e.g., flooding).

#### *B. Submission Requirements*

Except as provided below, schools are not required to submit Non-Procurement Contract documents to DC PCSB.

- Non-Procurement Contracts that are also Conflict of Interest Contracts are subject to the submission requirements listed in Section VIII.
- Schools may be required to submit Non-Procurement Contracts and the associated documentation as part of other DC PCSB compliance processes and DC PCSB retains the right to require submission of these documents pursuant to its authority under D.C. Code § 38-1802.11(a)(2).
- If a school enters into a procurement contract without a competitive selection process because it anticipates that the contract value will be under \$25,000 over the course of any fiscal year, but then unexpectedly exceeds

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<sup>10</sup> D.C. Code § 38-1802.04(c)(1)(B)(ii)

<sup>11</sup> Management contracts are not submitted through the procurement contract submission process but must be submitted to DC PCSB annually through LEA document collection processes.

\$25,000 in expenditures during a fiscal year, the school shall submit the following to DC PCSB.

- The Contract Submission Data Form;
- The executed contract; and
- An explanation for why the contract unexpectedly exceeded \$25,000 in a fiscal year.

## **VI. Exempt Procurement Contracts**

The following types of Contracts having an aggregate value equal to or exceeding \$25,000 over the course of any fiscal year are considered Exempt Procurement Contracts:

- (1) Artistic services or works of art;
- (2) Commodities or contractual services if federal or District law prescribes with whom the purchaser must contract;
- (3) Copyrighted materials and other intellectual property, including software, maintenance and support of existing software and technology, technical pamphlets, published books, copyrighted curricular materials, maps, professional development materials, and testing or instructional materials; provided, that the materials are purchased directly from the owner or licensee of the copyright;
- (4) Entertainers;
- (5) Grant-funded purchases wherein the grant specifies a vendor that must be used to procure specific goods or services;
- (6) Job-related seminars and training;
- (7) Legal services or negotiation services in connection with proceedings before administrative agencies, including DC PCSB, or state or federal courts, including experts, attorneys, and mediators;
- (8) Memberships in trade or professional organizations;
- (9) Personal property or services provided by a public entity, agency, or authority;
- (10) Postage;
- (11) Public transit farecards, passes, and tokens, including purchases from the Washington Metropolitan Area Transit Authority;
- (12) Purchases of advertising in all media, including electronic, print, radio, and television, provided, that they are purchased directly from the media outlet;
- (13) Special event venues and related services as dictated by the establishment;
- (14) Subscriptions for periodicals and newspapers;
- (15) Telecommunications services, provided that the school obtains quotes from multiple telecommunications providers, if multiple providers service the school location; and,
- (16) Utilities, including water, electricity, and gas, but not including telephone and communications services.

### *A. Bidding Requirements*

Schools are not required to conduct an RFP for Exempt Procurement Contracts.

### *B. Submission Requirements*

Within three business days of the Award Date of an Exempt Procurement Contract, the following documents must be submitted to DC PCSB via the data submission portal specified by DC PCSB.<sup>12</sup>

- Contract Submission Data Form. For ongoing expenditures (e.g., monthly utility or WMATA payments), schools may submit a single data form at the beginning of the fiscal year.

### *C. Effective Date*

Exempt Procurement Contracts must not include Effective Dates which are less than 10 business days from the Submission Date.

Exempt Procurement Contracts that are also Conflict of Interest Contracts are subject to the submission requirements listed in Section VIII.

Schools may be required to submit Exempt Procurement Contracts and associated documentation as part of other DC PCSB compliance processes and DC PCSB retains the right to require submission of these documents pursuant to its authority under D.C. Code § 38-1802.11(a)(2).

## **VII. Alternative Selection Process Contracts**

In the following circumstances, schools may elect to use an Alternative Selection Process in lieu of the RFP process.

- (1) Brokered services;
- (2) Emergency Contracts;
- (3) E-Rate and National School Lunch Program Procurements;
- (4) Financial audit services;
- (5) Procurements through Cooperative Purchasing Agreements;
- (6) Procurements through the General Services Administration (GSA) schedules;
- (7) Renewals/extensions of existing Procurement Contracts;
- (8) Sole Source contracts;

For each of the above types of Alternative Selection Processes Contracts the submission and other requirements are described below:

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<sup>12</sup> DC PCSB does not require LEAs to submit contracts for Exempt Procurement Contracts, however it does reserve the right to request them at any time.

With the exception of Emergency Contracts, Alternative Selection Process Contracts must not include Effective Dates which are less than 10 business days from the Submission Date.

(1) **Brokered services:**

*A. Bidding Requirements*

For services purchased through a broker (e.g., health insurance), the public charter school does not need to conduct a public bidding process, provided it can supply evidence that the broker solicited the services from a range of providers and provided comparative terms, conditions, and pricing of different providers to the school.

*B. Submission requirements*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- Contract Submission Data Form
- Evidence that the broker solicited the services from a range of providers and provided comparative terms. For example, an email from the broker comparing options from various vendors would be sufficient.

(2) **Emergency Contracts:**

*A. Bidding Requirements*

A school may award an Emergency Contract when an Emergency has arisen. As a general rule an Emergency Contract shall not be justified on the basis of the lack of adequate advance planning for the procurement. Emergency Contracts shall be limited to those goods or services necessary to meet the Emergency. Under no circumstances shall the term of an Emergency procurement contract extend beyond one year from the effective date of the contract.

*B. Submission Requirements*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- Contract Submission Data Form
- Executed contract

(3) **E-Rate and National School Lunch Program Procurements:**

*A. Bidding Requirements:*

Procurements made through the Universal Service Administrative Company's Schools and Libraries (E-Rate) program must follow the E-Rate program's competitive bidding requirements and are exempt from bidding requirements of this policy. Expenditures funded by the National School Lunch Program (NSLP) must follow NSLP requirements, including bidding requirements. Schools considering engaging in other government agency-administered programs with established bidding and submission requirements are encouraged to contact DC PCSB staff to discuss a waiver from the requirements of this policy.

*B. Submission Requirements:*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- Contract Submission Data Form

(4) **Financial Audit Services:**

*A. Bidding Requirements:*

In selecting an auditor for its annual audit from DC PCSB's Approved Auditor List public charter schools do not need to conduct a public bidding process, but are encouraged to solicit quotes from multiple auditors. This requirement does not limit a school's ability to enter into multiyear contracts or contracts with renewal/extension clauses, provided that the subsequent contract years are contingent on the auditor remaining on the Approved Auditor List.

*B. Submission Requirements:*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- Contract Submission Data Form

(5) **Procurements through Cooperative Purchasing Agreements:**

*A. Bidding Requirements:* None.

*B. Submission Requirements:*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- Contract Submission Data Form
- Lead agency's RFP

Pass-through purchases wherein the public charter school purchases goods or services through a third party may be considered Cooperative Purchasing Agreement procurements provided the lead agency is another DC public charter school, subsidiary of a DC public charter school, or the public charter school's management organization. If the procurement is made through the public charter school's management organization, the management organization must comply with the bidding and submission requirements of this policy if the purchase is solely or primarily for the DC public charter school.

(6) **Procurements through the General Services Administration ("GSA") schedules:**

*A. Bidding Requirements:*

The SRA provides that charter schools may purchase goods and services from GSA<sup>13</sup>. For more information on purchasing from GSA, see [www.gsaadvantage.gov](http://www.gsaadvantage.gov).

*B. Submission Requirements:*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB:

- Contract Submission Data Form
- The invoice for the purchase

(7) **Renewal Contracts:**

*A. Bidding Requirements:*

If a public charter school's contract with a vendor includes a renewal or option clause, the school does not need to rebid the goods and/or services. A Procurement Contract may be renewed at the school's discretion. If a contract that was originally bid was not a Conflicting Interest transaction but at the time of renewal has become such a transaction (by, for example, the appointment of a new board member to the school who has an interest in the vendor), then the renewal/extension and changed nature of the contract should be disclosed to DC PCSB and to the school's board. If a school originally entered into a contract without following the proper bidding and submission procedures, the school may not renew that contract without going through a proper bidding and submission process.

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<sup>13</sup> D.C. Code § 38-1802.10(e)(1)

*B. Submission Requirements:*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- Contract Submission Data Form. Effective dates and award dates for renewal contracts shall reflect the dates specific to the fiscal year in which the renewal is effective (e.g., a contract originally awarded in 2015 and renewed in 2019 should reflect the 2019 renewal dates when submitted as a renewal contract).

(8) **Sole Source Contracts:**

*A. Bidding Requirements:*

No less than seven business days prior to the Award Date of a Sole Source Contract, in lieu of an RFP, the school shall publish a Notice of Intent to Enter a Sole Source Contract following the same public notification requirements as in place for RFPs. This Notice, either in the text of the notice or via a link therein, shall identify the need, cost, goods or services, and the facts that justify a Sole Source Contract. If prior to the award of the contract the school receives an objection to the Sole Source Contract, then the school must bid the contract.

DC PCSB may follow up to determine if the Sole Source designation was appropriate. DC PCSB will accept a designation of a sole source contract if a school is able to demonstrate a reasonable expectation that awarding the Contract to any other vendor would not fulfill the school's needs or would significantly increase costs that would not be expected to be recovered through competition.

*B. Submission Requirements:*

Within three business days of the Award Date of a Procurement Contract, the following documentation must be submitted to DC PCSB via the data submission portal specified by DC PCSB.

- Contract Submission Data Form
- The Sole Source Notification, published at least seven business days prior to the Award Date
- Evidence that the Sole Source Notification was noticed, including, as applicable, the posting in the DC Register and newspapers of general circulation
- Executed contract

## VIII. Conflicting Interest Contracts

### A. Execution Requirements

A school is permitted to execute a Conflicting Interest Contract, as long as:

- a. The material facts of the relationship or interest between the school and the Conflicting Interest party, as it relates to the contract or transaction, are disclosed or known by the school's board of trustees before the meeting at which the contract or transaction is authorized, and the board in good faith authorizes the contract or transaction by the affirmative vote of a majority of the Disinterested Directors, even if the disinterested directors are less than a quorum; and
- b. The contract or transaction is fair to the school as of the time it is authorized, approved, or ratified by the board of trustees or the members.<sup>14</sup>

### B. Submission Requirements

When a school enters into a Conflicting Interest Contract, it must submit the required documents within three business days of the Award Date, even if the contract is otherwise exempt from contract document submission requirements. DC PCSB may follow up to inquire whether the contract is fair to the school. All Conflicting Interest Contracts must be reported except for those with a total annual contract value of less than \$1,000. The required documents are listed below:

- a. All relevant items listed in Sections IV, V, VI, and VII of this Policy;
- b. Indication that the Procurement Contract is a Conflicting Interest Contract on DC PCSB's Contract Submission Data Form;
- c. A written statement describing the conflict of interest, such as the relationship or interest between the vendor and a member of the school's board or leadership, and an attestation that the contract is fair to the school (e.g., fair market value) along with an explanation of how this was determined; and
- d. Draft board minutes which demonstrate the Contract was approved by a majority of disinterested board members. The minutes must show compliance with D.C. Code § 38-1802.04(c)(1A), including disclosure of the conflict of interest, familial relationship, or prior relationship, and full disclosure of the steps taken by board and staff to ensure that the contract was awarded fairly. Draft board minutes are not approved by the school's board, but should be complete and accurate. Draft minutes are acceptable because the submission requirements may necessitate

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<sup>14</sup> D.C. Code § 38-1802.04(c)(1A)(B).

submission of meeting minutes prior to the school's next board meeting where the minutes will be approved. An agenda does not count as minutes. DC public charter schools are also required to submit all approved board minutes to DC PCSB on a quarterly basis through a separate submission process.

## **IX. Consequences**

As of the effective date of this policy, the following consequences will apply for failure to comply with the requirements set forth above.

### **A. Procurement Contracts, Non-Procurement Contracts, Exempt Procurement Contracts, and Alternative Selection Process Contracts**

- i. Regarding the Timely Submission of Required Contracting Documents, DC PCSB staff will issue an Early Warning Notice via Email when:
  - a. a school's Submission Date for any given Contract is four or more business days after the Award Date, or
  - b. a school fails to submit an executed contract within 30 calendar days after the Execution Date.
  
- ii. Regarding the Accurate and Complete Submissions of Required Contracting Documents, DC PCSB staff will issue an Early Warning Notice via Email when:
  - a. a school properly submits all required documents for a contract, but the Submission Date is four or more business days after the Award Date, or
  - b. a school fails to adhere to the policy's timelines<sup>15</sup>, fails to submit relevant documents, or otherwise fails to adhere to any portion of the policy.
    - i. Examples of potential violations under this section (this list is meant to be representative not exhaustive):
      1. The Contract Effective Date is less than 10 business days after the Submission Date.
      2. A Sole Source Notification is not publicly noticed at least seven business days prior to the Award Date.
      3. An RFP is not publicly noticed at least seven business days prior to the Award Date.
      4. An Emergency Contract is renewed without publicly bidding.
      5. A broker fails to solicit multiple price quotes.

### **B. Conflicting Interest Contracts**

- i. Regarding the Timely Submission of Required Conflicting Interest Contracts, DC PCSB staff will issue an Early Warning Notice via Email when:

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<sup>15</sup> For this section IX, "timelines" refers to instances such as failure to Notice an RFP seven business days prior to the Award Date, executing a contract with an Effective Date less than 10 business days after the Submission Date, or other relevant timelines for a specific contract.

- a. a school's Submission Date for any Conflicting Interest Contract is four or more business days after the Award Date.
- ii. Regarding the Accurate and Complete Submissions of Required Conflicting Interest Documents
  - a. For Conflicting Interest Contracts with an annual value of \$1,000 or more, DC PCSB staff will issue an Early Warning Notice via email when:
    - i. a school properly submits all required documents for a Conflicting Interest contract, but the Submission Date is four or more business days after the Award Date, or
    - ii. a school fail to adhere to the policy's timelines, fails to submit relevant documents, or otherwise fails to adhere to any of the policy's requirements under Section VIII.
- iii. Compliance with Conflicting Interest Contracts is separate and apart from compliance under Sections IV, V, VI, and VII of this policy. For example, if a school fails to submit Contract Documents for a Procurement Contract which is also a Conflicting Interest Contract, there may be multiple consequences applied.

### **C. Out of Compliance Notice**

- i. DC PCSB staff will issue an Out of Compliance Notice via Email in accordance with DC PCSB's [Data and Document Submission Policy](#)<sup>16</sup>, when:
  - a. a school fails to meet the deadline set forth in the Early Warning Notice, or
  - b. during School Year (SY) 19-20 and beyond, when a school receives three Early Warning Notices in one school year.
    - i. For SY 18-19, a school will receive an Out of Compliance Notice when they have accumulated five Early Warning Notices.

### **D. Notice of Concern**

- i. DC PCSB staff will recommend the DC PCSB Board issue a Notice of Concern in accordance with DC PCSB's Data and Document Submission Policy, when:
  - b. A school receives two or more Out of Compliance Notices in one school year, or
  - c. a school fails to cure non-compliance within the timeframe provided.
- ii. DC PCSB staff will recommend the DC PCSB Board lift a Notice of Concern when:
  - a. a school has submitted all documents<sup>17</sup> identified in the Notice of Concern, and

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<sup>16</sup> DC PCSB's Data and Document Submission Policy can be found here: <http://www.dcpccb.org/sites/default/files/Data%20and%20Document%20Submission%20Policy%20IGNED.pdf>

<sup>17</sup> DC PCSB acknowledges there maybe some cases when it is not possible for a school to create and/or submit certain documents. For example, if a school failed to conduct an RFP process but has

- b. a school has not received an Early Warning Notice under this section (IX) during the six months prior to the recommendation.
- iii. DC PCSB staff will recommend the DC PCCSB Board issue a Notice of Concern if a school fails to submit required documents or fails to adhere to the policy in any respect for a Conflicting Interest contract exceeding \$1,000.
- iv. DC PCSB staff will recommend the DC PCSB Board issue a Notice of Concern if staff has evidence to suggest a school intentionally split a contract to avoid the \$25,000 bidding threshold.

#### **E. Charter Warning**

A charter warning may be issued to a charter school if the school is issued a Notice of Concern based on the above criteria in two consecutive years, or more than once in a single year.

#### **F. Fiscal Mismanagement**

The SRA requires DC PCSB to revoke the charter of a school if DC PCSB determines, among other things, that the school has engaged in a pattern of fiscal mismanagement.<sup>18</sup> DC PCSB will consider the school's compliance with this Policy in its assessment of whether the school has engaged in an instance or pattern of fiscal mismanagement. It should be noted that the presence of Self-Dealing in a Conflicting Interest Contract will be considered fiscal mismanagement and, depending on the materiality, could lead to the immediate revocation of the school's charter.

#### **X. Effective Date for the Procurement Contract Submission Policy**

The amendments to this policy will take effect on July 1, 2019 after its approval by the DC PCSB Board.

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already awarded a contract and that contract has been performed, Noticing an RFP after the fact would be meaningless. To the extent possible, solely for purposes under Section IX, A, ii, e, DC PCSB will only request documents which can be reasonably obtained, created, and/or submitted by a school.

<sup>18</sup> D.C. Code § 38-1802.13(b).

**Board Approval Acknowledged By:**



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Rick Cruz  
DC PCSB Board Chair

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