



Procurement Contract Submission Policy	
<b>ADOPTION/EFFECTIVE DATE:</b>	<b>MOST RECENTLY AMENDED:</b>
May 17, 2014 September 15, 2014 (revised)	November 21, 2016
<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 and that certain *Procurement Contract Documents*, as defined below, be submitted to DC PCSB within a certain time period after procurement contracts are awarded. 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. DC PCSB is responsible for reviewing contract package documents to determine whether the public charter school followed the requirements set forth in the SRA and other applicable laws, including, but not limited to the Nonprofit Corporation Act, Title 29, Chapter 4 of the D.C. Code. This policy is only applicable to public charter schools that receive local funding; schools in their pre-opening year (i.e., the year before their first year of academic operations) need not comply. This policy does not apply to employee contracts, including contracts with temporary staffing agencies.

## II. Definitions

The *Award Date* of a Contract is the date that the school chooses which vendor or bid to accept.

A *Contract* is a written, mutually binding agreement. A Contract is not limited to the provision of goods and services; it could include, for example, a loan agreement. Employment contracts, including temporary staffing agency contracts, are not considered Contracts for the purpose of this policy.

A *Conflicting Interest Contract* is a Contract 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 leader of the public charter school;
- (b) A family member<sup>1</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 section 2202(13);
- (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; 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.

An *Emergency Contract* is Contract entered into when an emergency has arisen. DC PCSB defines an emergency as 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.

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). Generally, five percent ownership interest will be considered a financial interest for the purposes of this policy.

An *Improper Contract* is a Conflicting Interest Contract that has been entered into without meeting the requirements of both IV.A.1 and IV.A.2 of this policy.

A *Non-Procurement Contract* is a lease or purchase of real property or a loan agreement.

---

<sup>1</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

*Non-Procurement Contract Documents* are all documents related to the award of a Non-Procurement Contract, as specified in this policy.

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 a fiscal year.<sup>2</sup> Procurement Contracts may include agreements signed by the school 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.

Leases or purchases of real property and loans are not Procurement Contracts but rather are Non-Procurement Contracts.

*Procurement Contract Documents* are all documents related to the award of a Procurement Contract, as specified in this policy. Where appropriate, Procurement Contract Documents may also include documentation evidencing a contract extension for a multiyear contract or a notice of intent to award a Sole Source Contract.

A *Sole Source Contract* is a Procurement Contract for which a school has identified only one responsible source. A sole source contract should only be awarded if it would not be feasible or practical to invoke the competitive solicitation process. A school should be 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. This may include limited rights in data, patent rights, copyrights, or secret processes; the control of basic raw material; or the need for a brand-name product or feature.

---

<sup>2</sup> See 31 U.S.C. § 3103; 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.

### **III. Bidding Requirements for Procurement Contracts**

#### **A. Process for Bidding Procurement Contracts**

Generally, Procurement Contracts must be bid but Non-Procurement Contracts do not need to be bid. To bid these contracts, 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 not less than seven business days prior to the award of each contract. Newspapers may be print or online publications.

Schools are not required to receive a specific minimum number of bids.

Online/Non-Bidding Vendors: DC PCSB will accept a price quote from an online/non-bidding vendor in lieu of a proposal submitted by a bidder. However, this does not relieve the school from the obligation to publish an RFP so that all possible vendors have the opportunity to respond.

#### **B. Exemptions to Bidding Requirements for Procurement Contracts**

DC PCSB does not request or review bidding documentation for the following types of Procurement Contracts. DC PCSB may nonetheless require submission of other Procurement Contract Documents for these types of Procurement Contracts.

- (1) Artistic services or works of art;
- (2) Brokered services;
- (3) Commodities or contractual services if federal or District law prescribes with whom the purchaser must contract;
- (4) Copyrighted materials, including technical pamphlets, published books, maps, and testing or instructional materials; provided, that the materials are purchased directly from the owner or licensee of the copyright;
- (5) Emergency Contracts;
- (6) Entertainers;
- (7) E-Rate and National School Lunch Program procurements;
- (8) Financial audit services;
- (9) Grant-funded purchases wherein the grant specifies a vendor that must be used to procure specific goods or services;
- (10) Job-related seminars and training;
- (11) Legal services or negotiation services in connection with proceedings before administrative agencies or state or federal courts, including experts, attorneys, and mediators;
- (12) Maintenance and support of existing software and technology to the extent that the creator of the intellectual property is still protected and is the only source of the maintenance and support of the existing software and technology;

- (13) Management contracts;
- (14) Memberships in trade or professional organizations;
- (15) Personal property or services provided by a public entity, agency, or authority;
- (16) Procurements through Cooperative Purchasing Agreements;
- (17) Procurements through the General Services Administration (GSA) schedules;
- (18) Postage;
- (19) Public transit farecards, passes, and tokens;
- (20) Purchases of advertising in all media, including electronic, print, radio, and television, provided, that they are purchased directly from the media outlet;
- (21) Renewals/extensions of existing Procurement Contracts;
- (22) Sole Source contracts;
- (23) Special event venues and related services as dictated by the establishment;
- (24) Subscriptions for periodicals and newspapers;
- (25) Telecommunications services; and,
- (26) Utilities.

More detailed descriptions of the bidding exemptions follow:

Brokered services: 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.

Copyrighted materials: This includes copyrighted curricular and professional development materials.

Emergency Contracts: A school may award an Emergency Contract without public notice or competitive bidding if it determines the situation to warrant such an award. Documentation must be provided to DC PCSB no more than ten business days after the award of the contract as described below. DC PCSB mandates that Emergency Contracts have a term of no longer than one year. Awarding Emergency Contracts in non-emergency situations may be considered fiscal mismanagement.

E-Rate and National School Lunch Program Procurements: 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 the bidding and submission requirements of this policy. Expenditures funded by the National School Lunch Program (NSLP) must follow the Office of the State Superintendent of Education's requirements, including bidding and submission requirements, and are exempt from the bidding and submission requirements of this policy.

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.

Financial Audit Services: In selecting an auditor 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 contracts with renewal/extension clauses.

Grant-Funded Purchases: If a grant requires that the public charter school use a specific vendor to provide certain goods or services, that contract does not have to be bid, and the school does not need to publish a notice of intent to enter into a sole source contract. 27 DCMR § 1701.03.

Management Contracts: All schools that operate with a school management organization, as defined in the SRA, must disclose this relationship in the description of its governance structure in its charter and charter agreement with DC PCSB. The management agreement between the school and its management organization must comply with the requirements of the SRA. Further, all financial transfers between a public charter school and its management organization (including subsidiaries) must be disclosed in the school's annual financial submissions to DC PCSB.

Procurements through Cooperative Purchasing Agreements: Cooperative Purchasing Agreements are contract vehicles where a lead agency has competitively bid a master contract on behalf of public agencies and nonprofit organizations. In many cases, the lead agency has selected a vendor who is offering its goods or services at advantageous prices. While DC PCSB does not endorse any Cooperative Purchasing Agreement, two examples are US Communities Government Purchasing Alliance (<http://www.uscommunities.org/>) and National Cooperative Purchasing Alliance (<http://ncpa.us/Home>).

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.

Public transit farecards, passes, and tokens: This includes purchases from the Washington Metropolitan Area Transit Authority.

Procurements through GSA: The SRA provides that charter schools may purchase goods and services from GSA<sup>3</sup>. For more information on purchasing from GSA, see [www.gsaadvantage.gov](http://www.gsaadvantage.gov).

Renewals/Extensions of Existing Procurement Contracts: If a public charter school's contract with a vendor includes a renewal clause, the school does not need to rebid the goods and/or services. 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.

Sole Source Contracts: Before awarding 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, not less than seven business days prior to the award of this contract. 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. DC PCSB may follow up to determine if the Sole Source designation was appropriate.

Telecommunications: In purchasing telecommunications services (e.g., cellular phone service), public charter schools do not need to conduct a public bidding process, but must solicit quotes from multiple telecommunications providers.

Utilities: For the purposes of this policy, a utility is water, electricity, and gas. Telephone and communications services are not considered utilities.

---

<sup>3</sup> D.C. Code § 38- 1802.10(e)(1)

**IV. Conflicting Interest Contracts**  
**A. Execution Requirements**

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

1. The material facts of the relationship or interest between the school and the Conflicting Interest party, as it relates to the contract or transaction, is disclosed to 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
2. The contract or transaction is fair to the corporation as of the time it is authorized, approved, or ratified by the board of trustees or the members.<sup>4</sup>

**B. Submission Requirements**

A school must submit the information below for DC PCSB's review of these contracts, as applicable.

1. When a Conflicting Interest Contract has a value equal to or exceeding \$1,000 over the full term of the contract, and otherwise meets the definition of a Procurement Contract or a Non-Procurement Contract, all of the requirements described in section IV.A. apply. Further, the school must, when it submits Procurement Contract and Non-Procurement Contract Documents:
  - a. Indicate that the Procurement Contract is a Conflicting Interest Contract on DC PCSB's Contract Submission Data Form; and
  - b. Describe the conflict of interest, the familial relationship, or the prior relationship, as applicable.
  - c. Submit draft board minutes demonstrating that the Conflicting Interest Contract was approved by the school's board in compliance with D.C. Code § 29-406.70. The minutes should include disclosure of the conflict of interest, familial relationship, or prior relationship, as applicable, full disclosure of the steps taken by board and staff to ensure that the contract was awarded fairly, and

---

<sup>4</sup> See, *supra*, note 18; D.C. Code § 29-406.70.



an affirmative vote of approval by the non-interested board members. After these draft board minutes have been approved, they should be submitted to DC PCSB as usual in accordance with the Annual Compliance Reporting.

DC PCSB may follow up to inquire whether the contract is fair to the school.

## **V. Submission Requirements for Procurement and Non-Procurement Contract Documents**

### **A. Required Documents**

Within three business days of the Award Date, the following documents must be submitted for Procurement Contracts and Non-Procurement Contracts, except when an exemption applies, as detailed below.

- A. Contract Submission Data Form: The Contract Submission Data Form (formerly known as the Determination and Findings Form) is DC PCSB's required form for submitting data about bids and contracts.
- B. RFP: The RFP or Sole Source Notification used to solicit the goods or services.
- C. Evidence of public notification: Evidence that the RFP or Sole Source Notification was posted publicly, including, as applicable, the posting in the DC Register and newspapers of general circulation.
- D. Bids received: All bids received in response to the RFP.
- E. Written justification for award: The school's rationale for choosing the selected vendor.
- F. Executed contract: The executed contract does not need to be submitted at the same time as the other Procurement Contract Documents and Non-Procurement Contract Documents. The executed contract must be submitted no later than 15 calendar days after the contract is fully executed.
- G. Draft board minutes: *For Conflicting Interest contracts only*. Draft board minutes are not approved by the school's board, but should be complete and accurate. An agenda does not count as minutes. The board minutes must demonstrate that the contract was approved by a majority of disinterested board members. The minutes must show compliance with D.C. Code § 29-406.70, 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. DC public charter schools are required to submit all approved board minutes to DC PCSB on a quarterly basis. All actions taken by the school's board, including approval of contracts, must be included in the minutes. Schools are only required to submit board minutes more than quarterly if the board considered a Conflicting Interest Contract.
- H. Description of conflict of interest: *For Conflicting Interest contracts only*. A written statement describing the relationship or interest between the vendor and a member of the school's board or leadership, as defined in section II.

The following tables summarize the documents required to be submitted for each type of Procurement Contract that is exempt from bidding:

<b>Brokered Services</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	The public charter school must submit evidence that the broker solicited the services from a range of providers and provided comparative terms, conditions, and pricing of different providers.
Written justification for award	Yes
Executed contract	No
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Competition Exemptions</b>	<b>Submission Required?</b>
<i>Including:</i>	
<ul style="list-style-type: none"> <li>• Artistic services or works of art;</li> <li>• Commodities or contractual services if federal or District law prescribes with whom the purchaser must contract;</li> <li>• Copyrighted materials, as described above;</li> <li>• Entertainers;</li> <li>• Financial audit services;</li> <li>• Job-related seminars and training;</li> <li>• Legal services or negotiation services, as described above;</li> <li>• Maintenance and support of existing software and technology, as described above;</li> <li>• Memberships in trade or professional organizations;</li> <li>• Personal property or services provided by a public entity, agency, or authority;</li> <li>• Postage;</li> <li>• Public transit farecards;</li> <li>• Purchasing of advertising, as described above;</li> <li>• Special event venues, as described above; and</li> <li>• Subscriptions for periodicals and newspapers.</li> </ul>	
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	Yes
Draft board minutes	The public charter school must submit draft board minutes and a

Description of conflict of interest	description of the conflict of interest <u>only</u> for conflicting interest transactions.
-------------------------------------	--

<b>Cooperative Purchasing Agreement Purchases</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	The public charter school must submit the lead agency's RFP.
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	Yes
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Emergency Contracts</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	Yes The public charter school must also submit a description of the emergency.
Executed contract	Yes
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Employment Contracts</b>	<b>Submission Required?</b>
Employment contracts, including temporary staffing agency contracts, are not considered Contracts for the purpose of this policy.	

<b>E-Rate and NSLP Procurements</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	No
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Financial Audit Services</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	Yes
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>General Services Administration Purchases</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	The public charter school must submit the GSA participation agreement.
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	Yes
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Grant-Funded Purchases</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	Yes The public charter school must also submit evidence that the grant specifies the vendor used to provide certain goods or services.
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Loans</b>	<b>Submission Required?</b>
Contract Submission Data Form	No
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	The public charter school must submit the contract, draft board minutes, and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Draft board minutes	
Description of conflict of interest	

<b>Management Contracts</b>	<b>Submission Required?</b>
Contract Submission Data Form	No
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	No
Draft board minutes	No
Description of conflict of interest	No

<b>Real Property Leases or Purchases</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	The public charter school must submit information on the cost per square foot, and provide documentation that the price negotiated is reasonable in comparison with other rates in the same neighborhood.
Written justification for award	No
Executed contract	Yes
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Renewals</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	Yes
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

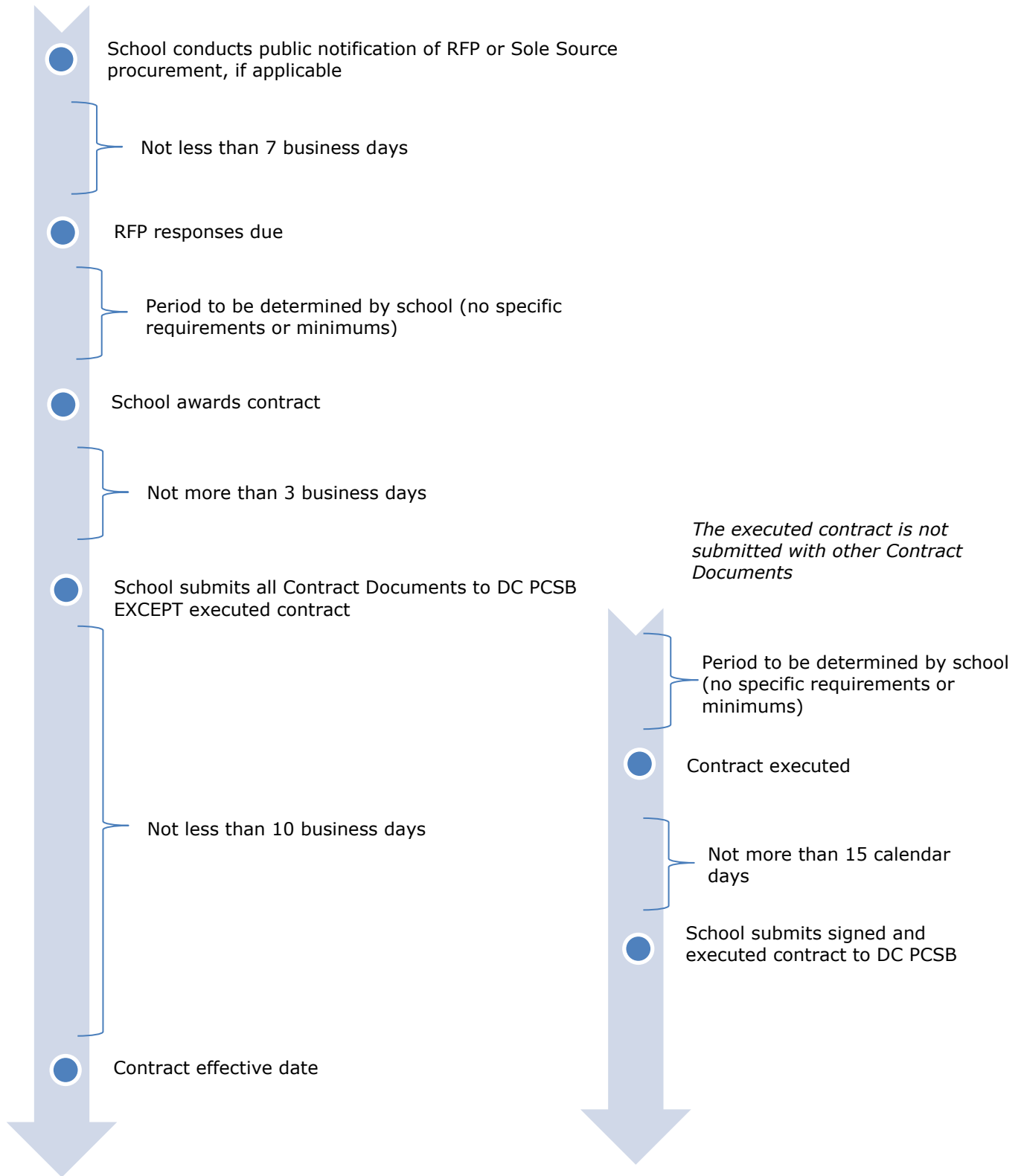
<b>Sole Source Contracts</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	The public charter school must submit the Sole Source Notification.
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	Yes
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Telecommunications</b>	<b>Submission Required?</b>
Contract Submission Data Form	Yes
RFP	No
Evidence of public notification	No
Bids received	The public charter school must submit evidence that it solicited quotes from multiple telecommunications providers.
Written justification for award	No
Executed contract	No
Draft board minutes	The public charter school must submit draft board minutes and a description of the conflict of interest <u>only</u> for conflicting interest transactions.
Description of conflict of interest	

<b>Utilities</b>	<b>Submission Required?</b>
Contract Submission Data Form	No
RFP	No
Evidence of public notification	No
Bids received	No
Written justification for award	No
Executed contract	No
Draft board minutes	No
Description of conflict of interest	No



## B. Timeline for Submitting Contract Documentation



## **VI. Effective Date of Procurement Contracts**

The effective date of a Procurement Contract is ten business days from when the charter school submits to DC PCSB all of the related Procurement Contract Documents for that Procurement Contract or the effective date specified in the contract, whichever is later.

## **VII. Interventions**

As of the effective date of this policy, the following consequences will apply for failure to timely submit contract documents:

- A. A written notice will be issued to a charter school when the school fails to:
  - 1. Timely and properly submit to DC PCSB Procurement Contract Documents for any contract where a conflict of interest exists;
  - 2. Submit all Procurement Contract Documents for contracts with a total value over \$100,000; or
  - 3. Submit all Procurement Contract Documents for three or more contracts, each of which is \$25,000 to \$100,000 in value.
- B. A charter warning will be issued to a charter school if the school is eligible for a notice of concern based on the above criteria in two consecutive years, or more than once in a single year.
- C. 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>5</sup> DC PCSB will consider the school's compliance with this Policy in its assessment of the existence of an instance or pattern of fiscal mismanagement.

## **VIII. Reporting**

DC PCSB will track and annually report on its website the following data for each school:

- A. The vendor, services provided, approximate value, and timeliness of each Procurement Contract and Non-Procurement Contract submission over the prior fiscal year;

---

<sup>5</sup> D.C. Code § 38-1802.13(b).

- B. The vendor, services provided, and approximate value of each Procurement Contract and Non-Procurement Contract executed but not submitted a school during the prior fiscal year; and
- C. The vendor, services provided, and value of Procurement Contracts and Non-Procurement Contracts which DC PCSB identified an Improper Contract or for which there was failure to disclose that such contract was a Conflicting Interest Contract.

## **IX. Effective Date**

The amendments to this policy will take effect immediately after its approval by the DC PCSB Board.

### **Board Approval Acknowledged By:**

---

Darren Woodruff  
DC PCSB Board Chair

**Disclaimer:** This publication is designed to provide information on the subject matter covered. It is distributed with the understanding that the publisher is not engaged in rendering legal, accounting or other professional services. Readers will be responsible for obtaining independent advice before acting on any information contained in or in connection with this policy.