

DAAS Procurement Approval, Suspension and Debarment Policy and Procedure

Document Location

The source of the document will be found in the Finance Department's Policy and Procedures Manual.

Approval Date: September 16, 2002; Updated June 8, 2012

Procurement Approval, Suspension and Debarment Policy and Procedure

Procurement Approval

1. Introduction

The purpose of this policy is to establish both 1) the Finance Committee and Board approval levels for all purchases, and 2) those purchases that require competitive bids.

2. Policy

All purchases between the amount of \$1 and \$500 require **1) the approval of the principal, where such purchase is generated by an individual who is based at a DAAS school or reports to or through a school principal.** Such purchase requires the identification of a budget line item account that contains sufficient funds to cover the amount of the purchase. The purchase must be accompanied by a Purchase Order or Purchase Requisition with the required approvals. If no budget is identified or available, then the purchase will be rejected in spite of the approvals. The Finance Department will be responsible for determining the current availability of the identified budget line item account.

All purchases between the amount of \$501 and \$5,000 require **1) the approval of the principal, where such purchase is generated by an individual who is based at a DAAS school or reports to or through a school principal and 2) the approval of the Director of Finance.** Such purchase requires the identification of a budget line item account that contains sufficient funds to cover the amount of the purchase. The purchase must be accompanied by a Purchase Order or Purchase Requisition with the required approvals. If no budget is identified or available, then the purchase will be rejected in spite of the approvals.

The Finance Department will be responsible for determining the current availability of the identified budget line item account.

All purchases between the amount of \$5,000 and \$23,000 require **1) the approval of the principal, where such purchase is generated by an individual who is based at a DAAS school or reports to or through a school principal, 2) the approval of the Director of Finance, and 3) the approval of the CEO.** Such purchase requires the identification of a budget line item account that contains sufficient funds to cover the amount of the purchase. The purchase must be accompanied by a Purchase Order or Purchase Requisition with the required approvals. If no budget is identified or available, then the purchase will be rejected in spite of the approvals. The Finance Department will be responsible for determining the current availability of the identified budget line item account.

All purchases in excess of \$23,000 require **1) the approval of the principal, where such purchase is generated by an individual who is based at a DAAS school or reports to or through a school principal, 2) Director of Finance, 3) the approval of the CEO, and 4) the approval of both the Finance Committee and the Board.** Such purchase requires the identification of a budget line item account that contains sufficient funds to cover the amount of the purchase. The purchase must be accompanied by a Purchase Order or Purchase Requisition with the required approvals. If no budget is identified or available, then the purchase will be rejected in spite of the approvals. The Finance Department will be responsible for determining the current availability of the identified budget line item account. All purchases in excess of \$23,000 must be subjected to competitive bids, with a minimum of three bids received. Where three bids cannot be obtained, it must be shown that all reasonable efforts were pursued to obtain three bids. This process should be adequately documented and presented to the Finance Committee and the Board. Generally, the lowest bid will be awarded the contract that is the subject of the bid. However, it is acceptable that higher bids may be awarded the contract that is the subject of the bid, where it can be shown that the higher bid is the greater value and/or the lowest bidder(s) are not qualified to perform the services or provide the subject goods.

All purchases that are of an emergency nature where such purchase exceeds \$23,000, as many bids as are practicable will be obtained and a conference call will be arranged with the Finance Committee members and the President of the Board to discuss the nature of the emergency and the recommended resolution. Minimally, one Finance Committee member or the President of the Board is required to approve the emergency purchase. Those members that are not present on the conference call will be notified of the circumstances of the emergency purchase.

Suspension and Debarment

1. Applicability.

Any debarment, suspension or other exclusion initiated by the Board shall be recognized by and effective for all procurement aspects of the Academy.

2. Policy.

(a) The Academy shall solicit bids from, award contracts to, and consent to subcontracts with responsible contractors only. Debarment and suspension are discretionary actions that are appropriate means to effectuate this policy.

(b) The serious nature of debarment and suspension requires that these sanctions be imposed only in the public interest for the Academy's protection and not for purposes of punishment. The Academy shall impose debarment or suspension to protect the Academy's interest and only for the causes and in accordance with the procedures set forth in this policy.

3. Procedures

a) Any contractor violating the stipulated procedures or policies of the Academy may be subject to Suspension and/or debarment as determined by and approved by the Board.

b) Contractors debarred, suspended, or proposed for debarment are excluded from receiving contracts, and the Academy's departments shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors, unless the Academy Board determines that there is a compelling reason for such action.. Contractors debarred, suspended, or proposed for debarment are also excluded from conducting business with the Academy as agents or representatives of other contractors. The finance officer shall maintain a listing of those contractors that are suspended or debarred.

(c)(1) After the opening of each bid or receipt of a proposal, the finance officer shall review the listing of contractors that are suspended or debarred.

(2) Bids received from any listed contractor in response to an invitation for bids shall be entered on the abstract of bids, and rejected unless the Academy Board determines in writing that there is a compelling reason to consider the bid.

(3) Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive range, nor shall discussions be conducted with a listed offeror during a period of ineligibility, unless the Academy Board determines, in writing, that there is a compelling reason to do so. If the period of ineligibility expires or is terminated prior to award, the financing officer may, but is not required to, consider such proposals, quotations, or offers.

(4) Immediately prior to award, the contracting officer shall again review the listing of suspended and debarred contractors to ensure that no award is made to a listed contractor.

4. Continuation of current contracts.

(a) Notwithstanding the debarment, suspension, or proposed debarment of a contractor, the Academy may continue contracts or subcontracts in existence at the time the contractor was debarred, suspended, or proposed for debarment unless the Academy Board directs otherwise. A decision as to the type of termination action, if any, to be taken should be made only after review by the Academy's financing officer and CEO, and by counsel to ensure the propriety of the proposed action.

(b) For contractors debarred, suspended, or proposed for debarment, unless the Academy Board makes a written determination of the compelling reasons for doing so, ordering activities shall not add new work, exercise options, or otherwise extend the duration of current contracts or orders

5. Restrictions on subcontracting.

(a) When a contractor debarred, suspended, or proposed for debarment is proposed as a subcontractor for any subcontract subject to Academy consent, the financing officer shall not consent to subcontracts with such contractors unless the Academy Board states in writing the compelling reasons for this approval action.

Debarment.

1. General.

(a) It is the financing official's responsibility to determine whether debarment is in the Academy's interest. The existence of a cause for debarment, however, does not necessarily require that the contractor be debarred; the seriousness of the contractor's acts or omissions and any remedial measures or mitigating factors should be considered in making any debarment decision. Before arriving at any debarment decision, the debarring official should consider factors such as the following:

(1) Whether the contractor had effective standards of conduct and internal control systems in place at the time of the activity which constitutes cause for debarment or had adopted such procedures prior to any Academy investigation of the activity cited as a cause for debarment.

(2) Whether the contractor brought the activity cited as a cause for debarment to the attention of the appropriate Academy official in a timely manner.

(3) Whether the contractor has fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the financing official.

(4) Whether the contractor cooperated fully with the Academy during the investigation and any court or administrative action.

(5) Whether the contractor has paid or has agreed to pay all criminal, civil, and administrative liability for the improper activity, including any investigative or administrative costs incurred by the Academy, and has made or agreed to make full restitution.

(6) Whether the contractor has taken appropriate disciplinary action against the individuals responsible for the activity which constitutes cause for debarment.

(7) Whether the contractor has implemented or agreed to implement remedial measures, including any identified by the Academy.

(8) Whether the contractor has instituted or agreed to institute new or revised review and control procedures and ethics training programs.

(9) Whether the contractor has had adequate time to eliminate the circumstances within the contractor's organization that led to the cause for debarment.

(10) Whether the contractor's management recognizes and understands the seriousness of the misconduct giving rise to the cause for debarment and has implemented programs to prevent recurrence.

The existence or nonexistence of any mitigating factors or remedial measures such as set forth in this paragraph (a) is not necessarily determinative of a contractor's present responsibility. Accordingly, if a cause for debarment exists, the contractor has the burden of demonstrating, to the satisfaction of the debarring official, its present responsibility and that debarment is not necessary.

(b) Debarment constitutes debarment of all divisions or other organizational elements of the contractor, unless the debarment decision is limited by its terms to specific divisions, organizational elements, or commodities. The financing official may extend the debarment decision to include any affiliates of the contractor if they are—

(1) Specifically named; and

(2) Given written notice of the proposed debarment and an opportunity to respond.

(c) A contractor's debarment, or proposed debarment, shall be effective unless the Academy Board states in writing the compelling reasons justifying continued business dealings between that agency and the contractor.

2. Causes for debarment.

The debarring official may debar:

(a) A contractor for a conviction of or civil judgment for:

(1) Commission of fraud or a criminal offense in connection with:

(i) Obtaining;

(ii) Attempting to obtain; or

(iii) Performing a public contract or subcontract.

(2) Violation of Federal or State antitrust statutes relating to the submission of offers;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal or State criminal tax laws, or receiving stolen property; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a Government contractor or subcontractor.

(b)(1) A contractor, based upon a preponderance of the evidence, for any of the following:

(i) Violation of the terms of a Government contract or subcontract so serious as to justify debarment, such as:

(A) Willful failure to perform in accordance with the terms of one or more contracts; or

(B) A history of failure to perform, or of unsatisfactory performance of, one or more contracts.

(ii) Delinquent Federal taxes in an amount that exceeds \$3,000.

(a) Federal taxes are considered delinquent for purposes of this provision if both of the following criteria apply:

(1) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(2) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.