

DAR -- Part 1 Procurement/Contracting Authority

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Procurement/Contracting Authority

1.000 Scope of Part

This part sets forth the purpose, structure and applicability of the District Acquisition Regulation (DAR) and the delegation of procurement and contracting authority.

Subpart 1.1 – Purpose, Authority, and Applicability

1.100 Purpose

The purpose of the DAR is to provide guidelines for Board of Education (Board Policy DJ) policy on acquisition, procurement and contracting matters, including the delegation of authority, methods and sources of acquisition, and training of procurement/contracting officials. A professional centralized procurement/contracting department is important to ensure public trust, fiscal accountability, integrity, ethical management, and to ensure that only highly trained procurement/contracting officials or properly delegated personnel, will exercise fiscal commitment authority on behalf of the District.

1.101 Authority

The authority to develop and maintain a centralized procurement and contracting department staffed with trained professional personnel is Board Policy DJ. The DAR is the implementing regulation that carries out this policy. This implementing regulation adheres to Colorado Revised Statutes (C.R.S.), and follows recognized professional acquisition guidelines.

1.102 Applicability

The DAR applies to all personnel employed by the District, who require or enter into any type of *purchase* or contract agreement; or any other type of contractual understanding.

Subpart 1.2 – Procurement/Contracting Authority and Responsibilities

1.200 Scope of Subpart

This subpart sets forth the authority and responsibility for entering into and/or signing contracts, *purchase orders*, agreements, or any other kind of contractual commitments on behalf of the District.

1.201 Appointment Authorities

The Superintendent, by Board policy, is charged with the responsibility for the District's acquisition system, and has the authority to appoint contracting officers. The Executive Director of Procurement and Contracting has authority to appoint Special Purchase Buyers by letter or memorandum.

1.202 Contracting Authority

The full delegation of contracting authority, consistent with appropriate approvals, will be provided only to contracting professionals in the centralized Procurement and Contracting Department, who are trained and experienced in the contracting career field. District personnel as circumstances *dictate*, may be provided limited authority, consistent with the need, to commit the District when it is in the best interest of the District.

1.203 Levels of Contracting Responsibility

a. Superintendent:

The Superintendent is responsible for the District's overall Procurement and Contracting program which includes the following:

1. A centralized professional procurement and contracting department, staffed with trained professionals, to maintain the District's acquisition system at a highly professional level.
2. An acquisition regulation that promotes competition, meets state law, is consistent with professional standards, and encourages fair and equitable procurement opportunities in the best interest of the District.
3. A procedure for warranting contract officers consistent with the rules set forth at C.R.S. 24-102-202, with checks and balances to delegate procurement commitment authority to only highly trained and qualified staff who will act in a prudent manner in the exercise of their authority.
4. Final Appellant authority on dispute resolutions.

b. Deputy Superintendent/Chief Financial Officer (CFO):

In the absence of the Superintendent or as delegated by the Superintendent, is responsible for the following:

1. Developing and overseeing the District's acquisition system.
2. A centralized professional procurement and contracting department, staffed with trained procurement and contracting professionals, to maintain the District's acquisition system at a highly professional level.
3. An acquisition regulation that promotes competition, meets state law, is consistent with professional standards, and encourage fair and equitable procurement opportunities in the best interest of the District.
4. A procedure for warranting contract officers consistent with the rules set forth at C.R.S. 24-102-202, with checks and balances to delegate and re-delegate procurement commitment authority only to trained and qualified staff who will act in a prudent manner in the exercise of their authority.
5. Appellant authority over dispute determinations rendered by the Executive Director of Procurement and Contracting.

c. Executive Director for Procurement and Contracting:

1. Responsible for taking lead role in establishing the overall procurement policy, maintaining the DARs, and in fostering good business relations with the *local business* community.
2. Responsible to the Superintendent and Deputy Superintendent, CFO for the overall procurement and contracting requirements for the District.
3. Responsible for establishing and overseeing the contracting officer warrant system, to include personnel training, recommending appointment of a contracting officer, monitoring performance of contracting officers and recommending termination of a contracting officer's *warrant*.
4. The supervisor of the centralized Procurement and Contracting Department, and will designate duties to the individual(s), based on qualifications and experience.
5. Responsible for assisting team members in accessing and evaluating procurement solutions
6. Responsible for keeping staff informed of Board and District level activities that impact the support provided by or from the Department.
7. Responsible for encouraging and supporting education and professional development opportunities for staff appropriate to their experience, interest and need.
8. Responsible for supporting continuous process improvement within department.

9. A *District Contracting Officer* with unlimited signature authority, subject to the authority and limitations of District Policy DJ and this DAR.

d. Contracting Officer:

There are two types of contracting officers within the District. They are *District Contracting Officer* (DCO) and Administrative Contracting Officer (ACO). The following responsibilities pertain to both except as noted:

1. Authorized by appointment to obligate the District in contractual/purchasing matters within the authority and limitations of the District Policy DJ and this DAR, and any specific limitations as stated on the *warrant*.
2. Responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the District in its contractual relationships.
3. Has wide latitude to exercise business judgment.
4. Makes business decisions regarding procurement/contract matters with due diligence, judgment and care.
5. Determine source selection procedures, contracting methods, and timing of issuance according to current market trends and conditions. Does not pertain to ACO.
6. Ensure that before entering into a contractual agreement that the District is receiving the best overall value, the requirements/*specifications* are clear, the contract or *modification* is legal, and that sufficient funds are available for obligation.
7. Ensure that *contractors* receive impartial, fair, and equitable treatment.
8. Request and consider the advice of specialists in technology, law, engineering, transportation, and other fields, as deemed appropriate.
9. Chairs *negotiations* for contracts, modifications to contracts, and settlement agreements

Subpart 1.3 – Appointment and Termination of Contracting Officers

1.300 Appointment

Contracting officers *shall* be appointed in writing by the Superintendent. The Certificate of Appointment (*warrant*) *shall* state required approvals and limitations of authority (See Attachment). The Executive Director for Procurement and Contracting will maintain files containing copies of all appointments.

1.301 Limitations

- a. All contracting officer warrants will have limitations. Examples of the limitations which may be cited on the warrant are specific dollar limits, and business clearance approval requirements above a dollar amount.
- b. Regardless of the dollar value, prior to initiating action to terminate any contract for default, clearance for the action shall be obtained from the Executive Director of Procurement and Contracting.
- c. Policy DJ states the types of procurements over specific dollar amounts that must have Board approval.

1.302 Termination

- a. Termination of a contracting officer appointment will be by letter, from the Executive Director, Procurement and Contracting, unless the Certificate of Appointment contains provisions for automatic termination.
- b. Reasons for a termination of appointment can include reassignment, termination of employment, or unsatisfactory performance.

- c. Copies of terminated appointments will be maintained in a central file in the Procurement and Contracting Department for a period of not less than two years after the termination date.

1.303 Warrants issued via Certificate of Appointment

a. District Contracting Officers (DCO)

Recommended by the Executive Director of Procurement and Contracting, and appointed by the Superintendent. DCO's normally have the following authority:

1. Signature and approval is based on position.
2. To solicit, enter into, administer, terminate contracts, resolve disputes, protests, and negotiate claims, settlements, and issue final contractual decisions on behalf of the District.
3. Delegate specific contract authority to appointed Administrative Contracting Officers (ACOs).
4. Delegate specific authority in writing to Contracting Officer's Technical Representative (COTR).

b. Administrative Contracting Officers (ACO)

Recommended by the Executive Director, Procurement and Contracting, and appointed by the Superintendent (ACO positions are normally outside the centralized contracting office and are limited to the Construction Program Office or other highly demanding program offices). The *Warrant* citing their appointment will list limitations. In no event will an ACO's authority exceed \$100,000. ACO's do not have authority to enter into source selections. An ACO will normally have the following authority:

1. Administer existing contracts delegated by a DCO or CO to include issuing change orders and negotiating modifications.
2. Inspecting and accepting performance and processing payments.
3. Supervise COTRs.

1.304 Appointment Criteria for Contracting Officers

The following criteria must be evaluated by the Executive Director, Procurement and Contracting before recommending a candidate for a contracting officer *warrant*.

a. District Contracting Officer (DCO)

1. Must meet all the formal education, contract training, and experience requirements of the position description.
2. Must demonstrate knowledge and understanding of District Board Policy DJ, CRS procurement procedures, and this DAR;
3. Demonstrates the ability to interpret the DARs, Contract Terms and Conditions, Clauses, and State Statutes.
4. Has previously held a Contracting Officer's *warrant* with other Public Agencies or the Federal Government or position of responsibility dealing with acquisition of goods and/or services.
5. Holds a Certified Public Purchasing Officer (CPPO), Acquisition Professional Development Program (APDP) Certification at level II or above, or other equivalent certification from a professional contracting/purchasing organization such as the National Contract Management Association.
6. Demonstrates professional business acumen, judgment, and character.

b. Administrative Contracting Officer (ACO)

1. Must demonstrate knowledge and understanding of District Board Policy DJ, CRS procurement procedures, and this DAR;
2. Demonstrates the ability to interpret the DARs, Contract Terms and Conditions, Clauses, and State Statutes.
3. Minimum four years of experience as a Contracting Officer's Technical Representative or two years experience as an ACO with other Public Agencies or the Federal Government.

1.305 Appointment Criteria for Non-Contracting Officer Purchase Authority

This part deals with the procedures for appointing the two types of, *procurement card* (P-Card) buyers, and other special purchase authority. This section defines the appointing authority, procedures for appointing, and the qualifications necessary to be appointed a P-Card buyer, or other special purchase authority.

a. Micro Purchase Buyer (MPB) (P-Card)

1. Must have completed training in the use of the P-Card, and demonstrated an understanding of the limitations in the use of the P-Card.
2. Will be appointed by letter, issued by the Executive Director for Procurement and Contracting.
3. Appointment is limited to the use of the P-Card and subject to the procedures as outlined in DAR Part 10.

b. Special Purchase Authority

School principals are eligible to be appointed by letter as Special Purchase Buyers, by the Executive Director, Procurement and Contracting. In order to receive this authority the following is required:

1. Must have completed *simplified* procurement training conducted by the Procurement and Contracting Department
2. Must demonstrate knowledge and understanding of District Board Policy DJ, procurement procedures, and this DAR;
3. Demonstrates the ability to interpret the DAR, and Contract Terms and Conditions.
4. General fund procurements will be limited to \$2,500 and may be purchased via P-Card for approved items.
5. Student activity fund (SSA) purchases at high schools and middle schools are limited to \$10,000; school *purchase orders* must include the District approved general provisions.
6. All procurements above \$5,000 must provide proof of competition or justification for non-competition.
7. High school principals may be authorized to enter into SSA procurements up to \$100,000 per *purchase order* for class rings, yearbooks, caps and gowns, and pictures.
8. Independent Consultant contract will be limited to \$500; all agreements above \$500 will be forwarded to the Procurement and Contracting Department for contractual action.

1.306 Misuse of Authority

All purchases under this authority *shall* comply with District Policy and *District Acquisition Regulations*. Misuse of this authority may result in:

- a. Termination of this special purchase authority;
- b. Disciplinary action; and
- c. The personal liability of the person with special purchase authority to refund the District for the unauthorized purchases(s).

1.307 Electronic Commerce

Contracting Officers are expected to support initiatives to encourage the use of electronic means to promote commerce through *solicitation*, award, and contract administration including correspondence with vendors.

Attachment 1 – Sample Letter for Appointment of Purchase Authority

MEMORANDUM

TO: «Lname», «Position», «School»
FROM: Kris Odom
DATE:
SUBJECT: Annual Appointment of Special Purchase Authority for School Year 2007-2008

- a. Pursuant to the District Acquisition Regulation (DAR) Part 1, paragraph 1.307, and completion of the required training, you are hereby authorized to perform the following procurement actions:
1. Enter into and sign independent consultant agreements up to \$500; however, all anticipated agreements with PERA retirees, regardless of the dollar amount, must be forwarded to the Procurement and Contracting (P&C) Department for an *evaluation* and a determination before award.
 2. A Consultant/Professional Services Agreement template and General Provisions are provided at <http://www.d11.org/procurement/>. All requirements for independent consultant agreements in excess of \$500 must be forwarded to your P&C Department for finalization and award.
 3. Recommend the P-Card be used for all P-Card authorized purchases regardless of funding source. Those procurements, not authorized to be purchased using the P-Card, must be purchased using a *purchase order*. Check request procedures are not an authorized purchase method.
 4. Any purchase over \$10,000 must be competed (bid out) in accordance with DAR Part 4, paragraph 4.104, or justified in writing why competition is not available. Therefore, recommend all purchases above \$10,000 be forwarded to your P&C Department for competition and award.
 5. Enter into and sign agreements that will not exceed one year, which provide authorization for vendors to sell products such as school photos, class rings, yearbooks, etc. directly to students. These agreements must contain the district's *Purchase Order* Terms and Conditions which are located at <http://www.d11.org/procurement/>.
 6. Pursuant to Board Policy JJE-R, Student Fundraising Activities, you are hereby authorized to enter into nonexclusive fundraising agreements not-to-exceed one year. All requirements, which would result in an exclusive arrangement or would exceed one year, must be forwarded to your P&C Department for finalization and award.
 7. Pursuant to Board Policy KH-B Advertising in Schools, you are hereby authorized to enter into nonexclusive advertising partnership agreements not-to-exceed one year or \$1,000; however, you are not authorized to enter into any agreement which would violate the terms of existing district-wide exclusive agreements such as the Pepsi-Cola contract. All requirements, which would result in an exclusive arrangement or would exceed one year, must be forwarded to your P&C Department for finalization and award.
- b. In accordance with the Colorado Revised Statutes, you are required to maintain a copy of all contractual documents for one year following final payment. Contractual documents are subject to annual audits.
- c. All procurements must be purchased adhering to ethical standards, in accordance with DAR Part 3, paragraph 3.203, entitled Ethical Standards. Misuse of this authority may result in disciplinary action and responsibility to refund the district for the unauthorized purchase(s) at your personal expense.
- d. We know how busy you are educating students, so we want you to know we are here to support you. Give us a call.

Attachment 2 – Example Contracting Officer Warrant

Certificate of Appointment

Under authority vested in the undersigned and in conformance
with Colorado Springs School District No 11, District Acquisition Regulation

Contract Specialist III

is appointed

District Contracting Officer

Subject to the limitations contained in the District Acquisition Regulation and to the following: Signature authority is limited to \$1 million. Business Clearance is required by a Senior Contracting Specialist between \$250,000 and \$499,000; business clearance is required by Assistant Director or Executive Director between \$500,000 and \$1 million.

Colorado Springs



XXXXXXXXXX

Superintendent

Date