

## **Federal Procurement**

### **Purpose**

The purpose of this procedure is to ensure that all expenditures from federal grants other than salaries and benefits are made in an open and competitive manner and in compliance with federal regulations.

### **WSD Procurement Procedure**

*Step 1:* Identify a need for a non-salary and benefit purchase

*Step 2:* Determine method of procurement. There are 5 allowable methods of procurement:

Micro-purchase— The acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$40,000<sup>[1]</sup> (\$2,000 if [Davis-Bacon Act](#) applies).

- Micro-purchases may be awarded without soliciting competitive price quotes if you consider the price to be reasonable.
  - Reasonableness is based on research, experience, purchase history or other information.
  - Reasonableness must be documented.
- To the extent practicable, purchases must be distributed among qualified suppliers.
- Purchases exceeding the threshold cannot be divided solely to meet this threshold.

Small Purchase- The acquisition of services, supplies, or other property, the aggregate dollar amount of which does not exceed \$250,000<sup>[2]</sup>.

- Must obtain two or more prices and document the reason vendor was selected
  - Vendor/costs may be identified through advertisement, email or written requests for information.
  - Prices must be documented in writing and attached to the procurement form.

- Purchases subject to Vermont bid Law (16 V.S.A. §559) must meet both VT Statutes and federal standards.

Sealed Bids— For purchases that exceed \$250,000, formal advertising when a complete, adequate and realistic specification or purchase description is available.

- Bids must be solicited from an adequate number of sources
- Sufficient time must be allowed for potential vendors to submit bids
- Invitation for bids will be publicly advertised and include any specifications for the bidder to properly respond
- All bids will be publicly opened at the time and place determined by the invitation to bid
- A firm fixed price contract will be awarded to the lowest responsive and responsible bidder
- Any or all bids may be rejected if there is a sound documented reason
- May be subject to Vermont bid Law (16 V.S.A. §559) must meet both VT Statutes and federal standards

Proposals—For purchases that exceed \$250,000, formal advertising when a sealed bid is not appropriate.

- Proposals must be solicited from an adequate number of sources
- Requests for proposals must be publicized and identify all evaluation factors and their relative importance
- A written method for conducting technical evaluations must be established
- A contract will be awarded to the vendor whose proposal is most advantageous to the program, with price and other factors considered
- May be subject to Vermont bid Law (16 V.S.A. §559); must meet both VT Statutes and federal standards

Non-Competitive Proposals— Procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only from a single source
- A public emergency
- The Agency of Education expressly authorizes the noncompetitive procurement proposals in response to a written request. Naming a vendor in a grant application, strategy, investment, or award does not constitute a sole source approval. A separate written request and approval are required
- After solicitation of a number of sources, competition is determined inadequate
- May be subject to Vermont bid Law (16 V.S.A. §559) must meet both VT Statutes and federal standards

*Step 3:* Use the method selected in Step 2 to select a vendor

*Step 4:* Check for vendor suspension or debarment at [www.sam.gov](http://www.sam.gov)

- Suspended or Debarred vendors may not be selected.
- (Retain a copy of search results for Step 5)

*Step 5:* Document procurement process\*

- Documentation must include:
  - Method of procurement
  - Solicitation method (advertisement, invitation, internet research, etc.)
  - All vendor proposals, if required by the procurement method (print-outs of internet research, phone conversation notes, bids, etc.)
  - Rationale for vendor selection
  - Suspension/Debarment results from Step 4

*Step 6:* Prepare for a purchase order and or contract

- A purchase order or contract must include the following:
  - Accurate and detailed description of goods or services as approved in grant investment.

- Clear definition of unit cost or rate of pay, or basis for the contract price
- Invoice requirements, clear billing information and breakdown of charges (Note for contracted services only payment cannot be made until after services have been provided.)
- Signature by authorized individual as per local procedures
- Contracts must be signed dated by both parties prior to start of work
- Contracts in excess of \$10,000 must address termination for cause and convenience per 2 CFR §200 Appendix II
- Contracts in excess of \$250K must address administrative contractual or legal remedies in instances where contractors violate of breach contract terms and provide sanctions/penalties
- Allowable cost only (sales tax, alcohol, donations, entertainment, lobbying, gift cards...are not allowable)

*Step 7:* Follow any additional WSD purchasing procedures.

*Step 8:* Prepare to pay the invoice.

- Do not pay an invoice for contracted services in advance of the work being completed
- Verify work billed on invoice for contracted services was completed satisfactorily and per contracted terms and matches the deliverables in the contract (i.e. invoice signed and dated by grant manager)\*
- Verification of receipt of goods (i.e. signed packing slip or other documentation of receipt)\*
- Verify proof of attendance where applicable (i.e. sign-in sheet and agenda)
- Unit on invoice is consistent with the contract (i.e. if contract is based on a daily rate then billing is based on a daily rate)
- If invoice contains charges for non-federal work or multiple federal programs, the invoice must be clearly written to be able to separate the charges

- Verify the expenditure is within the grant period
- Verify the expenditure is allowable (sales tax, alcohol, donations, entertainment, lobbying, gift cards...are not allowable)

*\*maintain documentation with expenditure packet*

### **Additional Requirements**

#### **General Standards (2 CFR §200.318):**

- Avoid the acquisition of unnecessary or duplicative items
- Consider consolidation or breaking out procurements to obtain a more economical purchase
- Consider lease vs purchase
- Consider state and local intergovernmental purchasing agreements
- Consider use of excess and surplus property
- Consider use of value engineering clauses and contracts for construction

projects per 2 CFR §200.318 (g)

- Award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.
- WSD may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. [2 CFR §200.318 \(i\)](#)
- Must be responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising out of procurements.
- The Buy American provision per 7 CFR 210.21(d) applies to the purchase of domestic food used in the school district's child nutrition program.

#### **Competition (2 CFR §200.319):**

- Situations that restrict competition

- Specifying a brand name only, instead of allowing “an equal”
  - State or local preference except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference
  - Conflicts of interest
  - Unreasonable requirements on vendors to qualify to do business
  - Requiring unnecessary experience or excessive bonding
  - Noncompetitive pricing practices
  - Noncompetitive awards to consultants on retainer
  - Any arbitrary action in the procurement process
- Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements.

**Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms (2 CFR §200.321):**

- WSD must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- Affirmative steps must include:
  - Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

**Domestic preferences for procurements. (2 CFR §200.322):**

- As appropriate and to the extent consistent with law, WSD to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all sub-awards including all contracts and purchase orders for work or products under this award.
- For purposes of this section:
  - “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**Bonding Requirements (2 CFR §200.326):**

Construction contracts or subcontracts exceeding the Simplified Acquisition Threshold are subject to bonding requirements of 2 CFR §200.326. Applicable provisions must be included in the procurement process and resulting contract.

**Equipment (2 CFR §200.1):**

Equipment is defined as tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000. See also the definitions of capital assets, computing devices, general purpose equipment, information technology systems, special purpose equipment, and supplies in this section.

Equipment purchases must receive prior approval from the Agency of Education using the process outlined in [this memo](#).

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[1] The Micro-Purchase Threshold set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1

[2] Simplified Acquisition Threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1.