

FEDERAL GRANT PROCUREMENT WORKSHOP

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Codification of Governmentwide Grants Requirements
by Department

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Department (See Note 1)	Grants Management Common Rule (State & Local Governments)	OMB Circular A- 110 (universities & non-profit organizations) (See Note 2)	Nonprocurement Suspension & Debarment and Drug-Free Workplace Act common rule (See Note 3)	Byrd Anti- Lobbying Amendment common rule (See Note 4)
Agriculture	7 CFR 3016	7 CFR 3019	7 CFR 3017	7 CFR 3018
Commerce	15 CFR 24	15 CFR 14	15 CFR 26	15 CFR 28
Defense	32 CFR 33	32 CFR 32	32 CFR 25	32 CFR 28
Education	34 CFR 80	34 CFR 74	34 CFR 85	34 CFR 82
Energy	10 CFR 600	10 CFR 600	10 CFR 1036	10 CFR 601
Health & Human Services	45 CFR 92	45 CFR 74	45 CFR 76	45 CFR 93
Housing & Urban Development	24 CFR 85	24 CFR 84	24 CFR 24	24 CFR 87
Interior	43 CFR 12	43 CFR 12	43 CFR 12	43 CFR 18
Justice	28 CFR 66	28 CFR 70	28 CFR 67	28 CFR 69
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State	22 CFR 135	22 CFR 145	22 CFR 137	22 CFR 138
Transportation	49 CFR 18	49 CFR 19	49 CFR 29	49 CFR 20
Treasury	--	--	31 CFR 19	31 CFR 21
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SPECIAL TERMS AND CONDITIONS FOR THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM – FORMULA GRANTS

FA-TC-0001A - RESOLUTION OF CONFLICTING CONDITIONS

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this award must be referred to the DOE Award Administrator for guidance.

FA-TC-0001B - AWARD AGREEMENT TERMS AND CONDITIONS

This award/agreement consists of the Grant and Cooperative Agreement cover page, plus the following:

- a. Special terms and conditions.
- b. Attachments:

Attachment No.	Title
1	Intellectual Property Provisions
2	Project Activity Worksheet(s)
3	Federal Assistance Reporting Checklist
4	Davis Bacon Wage Determination
- c. Applicable program regulations - Title V, Subtitle E of the Energy Independence and Security Act (EISA) of 2007 funded by the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act or Act).
- d. **DOE Assistance Regulations, 10 CFR Part 600** at <http://ecfr.gpoaccess.gov> and if the award is for research and to a university or non-profit, the Research Terms & Conditions and the DOE Agency Specific Requirements at <http://www.nsf.gov/bfa/dias/policy/rtc/index.jsp>.
- e. Application/proposal as approved by DOE.
- f. National Policy Assurances to Be Incorporated as Award Terms in effect on date of award at http://management.energy.gov/business_doe/1374.htm.

FA-TC-0001C - AWARD PROJECT PERIOD AND BUDGET PERIODS

The Project Period for this award is 36 months from the date of award.

FA-TC-0003.1 - PAYMENT PROCEDURES - ADVANCES THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM

- a. Method of Payment. Payment will be made by advances through the Department of Treasury's ASAP system.
- b. Requesting Advances. Requests for advances must be made through the ASAP system. You may submit requests as frequently as required to meet your needs to disburse funds for the Federal share of project costs. If feasible, you should time each request so that you receive payment on the same day that you disburse funds for direct project costs and the proportionate share of any allowable indirect costs. If same-day transfers are not feasible, advance payments must be as close as is administratively feasible to actual disbursements.
- c. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.
- d. Payments. All payments are made by electronic funds transfer to the bank account identified on the ASAP Bank Information Form that you filed with the U.S. Department of Treasury.



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10 C.F.R. § 600.236 Procurement.

Title 10 - Energy

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Title 10: Energy

PART 600—FINANCIAL ASSISTANCE RULES

Subpart C—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

Post-Award Requirements

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§ 600.236 Procurement.

(a) *States*. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

(b) *Procurement standards*. (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (i) The employee, officer or agent,
- (ii) Any member of his immediate family,
- (iii) His or her partner, or
- (iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to

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subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

3)

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

4)

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

5)

(10) Grantees and subgrantees will use time and material type contracts only—

- (i) After a determination that no other contract is suitable, and
- (ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

6)

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all

contd.



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administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

- (i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and
- (ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

7) (c) *Competition.* (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of §600.236. Some of the situations considered to be restrictive of competition include but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business,
- (ii) Requiring unnecessary experience and excessive bonding,
- (iii) Noncompetitive pricing practices between firms or between affiliated companies,
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest,
- (vi) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement, and
- (vii) Any arbitrary action in the procurement process.

8) (2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

9) (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

10) (ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

11) (4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include

enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

13) (d) *Methods of procurement to be followed.* (1) *Procurement by small purchase procedures.* Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

14) (2) *Procurement by sealed bids (formal advertising).* Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in §600.236(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

15) (A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

16) (B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

17) (C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

18) (D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

19) (3) *Procurement by competitive proposals.* The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

20) (v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

21) (4) Procurement by *noncompetitive proposals* is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

22) (i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

23) (A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

24) (ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

25) (iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

26) (e) *Contracting with small and minority firms, women's business enterprise and labor surplus area firms.* (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

27) (f) *Contract cost and price.* (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

28) (2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

29) (3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see §600.422). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

30) (4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

31) (g) *Awarding agency review.* (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g) (2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) *Bonding requirements.* For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) *A performance bond on the part of the contractor for 100 percent of the contract price.* A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(3) *A payment bond on the part of the contractor for 100 percent of the contract price.* A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

33) (i) *Contract provisions.* A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (Contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts in excess of \$2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

[53 FR 8045, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19641, Apr. 19, 1995; 61 FR 7166, Feb. 26, 1996]

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FEDERAL GRANT PROCUREMENT NOTES EXAMPLE GRANT - 10 CFR

- 1) Many people read this clause as saying we can use the City/County purchasing processes. We do incorporate our standard Purchasing protocol but the clause goes on to say PROVIDED that the procurement conforms to applicable Federal Law and standards identified in this section.
Our standard Purchasing protocol does not contain all the requirements listed in Federal Grants.
- 2) The department and Purchasing each have a part in a contract administration system. Purchasing will keep all documents in our files associated with the purchase. It is up to the department to maintain performance files and communicate with Purchasing once the contract is executed in order to ensure Contractor performance is done according to the terms of the bid.
- 3) It is the Departments responsibility to verify that the company that is being awarded the bid is a valid company and can provide the products and services as specified. If there are any questions following your inquiry, please call Purchasing for assistance.
- 4) The Independent Cost Estimate (ICE) which is required prior to issuing a quote or bid will provide the basis for how a bid will be solicited by Purchasing. The ICE, Price/Cost Analysis, Recommendation and all ebid documents will be kept in our file to meet the needs of this clause should your department be audited.
- 5) This refers mainly to construction or service contracts. Most grants require a firm/fixed contract for services and commodities in order to eliminate change orders and remain within the budget for the project.
- 6) The City and County both have formal Protest Policies in place. A Vendor must follow these procedures which are posted as an Attachment on each Federal bid issued by Purchasing. If the Vendor does not believe the City/County Protest Policies were followed as written they can file a protest with the Federal Agency that issued the grant.
- 7) Competition for bids is very important to meeting Federal Guidelines. We use brand names in a number of our bids for various reasons. If you are using Federal money you can use a brand name but you must indicate the salient characteristics that will allow an equal product to be considered. Personal preference for a brand cannot be an award consideration. You must evaluate all products being submitted and if a lower priced, equivalent product is proposed it must receive the award. Also, we cannot allow a Vendor to provide a recommendation for a product that can only be sold by them. This is specified in some CFR's but should be followed for all purchases.

- 8) The City/County bidding process does not allow local preference. This clause is another example of the emphasis on fair and open competition on all procurements using grants.
- 9,10,11) Refer to #7 regarding salient characteristics. If you need a telephone, list the features you want in the phone.
 - ie. Hold Button, Conference Call Capabilities, Headset Connections, etc..You should not include information such as the color of the buttons, amount of heat generated, etc., unless you can prove that those features are relevant to the performance of the phone.
- 12) Purchasing attaches our Instructions To Bidders to all quotes and bids which lists all the basic requirements that Vendors must meet to be considered Responsive. Additional factors such as references, experience, licenses, permits, etc. must be provided during the bid process.
- 13) The amount listed in this section is not applicable to the City or County. Our bidding thresholds are used in place of the Federal amount. Our terms for a "small purchase" would be anything up to \$20,000.00 for the County and \$25,000.00 for the City. Due to the requirements listed in the sentence at the bottom of this clause, we are requiring all purchases using Grant money to go through Purchasing. It is the only way to ensure that we are obtaining an adequate number of quotes and that all the required paperwork is attached to the file for the purchase. We strongly encourage departments to not use your Federal money for small items such as printing or office supplies in order to utilize our City and County contracts rather than get quotes using all the Federal guidelines.
- 14) This section refers to the City/County Formal Bid process (over \$20,000.00 County and over \$25,000.00 City) which is done completely through Purchasing and involves an advertisement in the Journal Star along with all other documentation and guidelines.
- 15) Purchasing issues an advertisement for the bid and the ebid system notifies all registered suppliers for that service or commodity. If you have specific Vendors whom you want invited, submit the names with your request or on the ICE.
- 16) Provide information on the product or service you are needing and Purchasing will incorporate it into their Standard Specification language.
- 17) All bids are opened by unsealing them through the ebid system. Bids are then automatically posted on the ebid site under "Closed Bid Opportunities".
- 18) Following a Price or Cost Analysis and recommendation from the department, the Purchasing office will draft a contract which includes and attaches, the Federal documents and any other notes associated with the bid.

- 19) Procurement by Competitive Proposals - Non-A/E Professional Services utilizes the RFP process currently used by the City and County. There are certain additional requirements for Federal Grants including the use of price as an evaluation factor. You must indicate how you will evaluate and score the proposals received as part of the specifications. This type of procurement is utilized when you believe there are several ways of accomplishing a task but you want a professional opinion on how to get it done and at the lowest cost. These services must be quoted or bid if using Federal grant money.
- 20) This clause addresses RFP's for A/E Services (construction design). It allows the use of open competition with a qualifications based selection process. Price is not used as a selection factor. Once again, these services must be quoted or bid if using a Federal Grant. The City list of Pre-qualified Engineers and Architects cannot be used.
- 21) See section 19 for further clarification on the use of this bidding process.
- 22) Procurement by Noncompetitive Proposals are used when a bid or proposal situation is not possible. Several steps must be taken prior to using this option. In most cases, Purchasing will issue a quote or bid for the product being requested in order to verify that no other Vendors carry the same or an equivalent product. If your department does testing on a certain product and you believe it is the best product for your purposes, we must still give all other Vendors the opportunity to compete. This may require you to test one or more products that you previously did not consider. This will take time and effort on your part but is a necessary part of the process. We ask that you contact Purchasing before suggesting the use of this process.
- 23) This section further addresses the requirements for a Noncompetitive Proposal.
- 24) Cost analysis is a requirement for Noncompetitive Proposals and will be addressed in section 27.
- 25) This clause states that you may be required to get permission from the Grant Agency prior to issuing a contract using Noncompetitive Proposals. Make sure you check your grant for specifics.
- 26) Purchasing automatically notifies all registered Vendors of bid opportunities on the World Wide Web. The bid is available to all Vendors on the web which means the MOB, WOB and DBE businesses have the opportunity to bid on all products and services. Make sure your grant does not have additional requirements for the hiring of MOB, WOB and DBE businesses.

- 27) A Cost or Price Analysis must be performed for ALL procurements and with every procurement action including contract modifications. This information is required to determine that the Government is getting a fair and reasonable price. In other words, are the prices submitted higher than what the general public is being charged for the same product. A copy of the Price Analysis and Cost Analysis sheet is attached. There is also an attachment with a definition from FTA on both of these functions.
28. Grantees must make Independent Cost Estimates (ICE) BEFORE receiving bids or proposals. In order to assist in the documentation and proper completion of the purchase, the Purchasing Department is requiring this form before the specs are written and a bid is released. An ICE form is attached. Basically this form provides information and an estimated price of the products and services you are requesting. If your ICE is lower than the bids submitted you will have to explain why there was a difference and are the prices submitted fair and reasonable.
- 29) A Cost Analysis is necessary when adequate pricing competition is lacking, sole source procurement and contract modifications or change orders unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. Cost Analysis is very detailed and requires specific information including profit and other factors that the Vendor has built into their bid. In many cases the Vendor will need to give you the information to complete this form correctly. This takes time and additional effort on your part. A Cost Analysis sheet is attached.
- 30) A Price Analysis is used in all other instances to determine the reasonableness of the Vendors price. Most times this can be accomplished by comparing the bids submitted in the bid by all Vendors and your Cost Estimates. A Price Analysis sheet is attached.

A Cost or Price Analysis must be received in Purchasing prior to a contract being awarded or a PO being issued.

- 31) This is additional information for completing a Cost Analysis form.
- 32) This clause refers to a previous clause that requires firm/fixed price contracts. The City and County currently uses some Cost Plus Percentage contracts for various items including medical supplies. This type of contract lists an item category and the Vendor provides a discount from the Catalog price or a price at a certain percentage over cost. Either way, they are not allowed when using Federal grant money.

33) Contract Provisions - Every Federal Grant requires the use of certain documents that must be made a part of the bid and/or contract. The list of documents below this clause are required for this grant. We haven't found that any two CFR's contain all of the same documents. Purchasing has compiled the forms in the ebid library for each CFR which has been used so far. We do need the department's assistance in making sure that all the forms are attached once the bid is ready to be issued. You will have to verify the documents are attached and respond back to Purchasing with your approval or to make changes or additions.

A copy of a current bid issued using Federal Grant money is attached to this packet so you can see where they are listed in the bid. Each one of these documents is then attached to and made a part of the contract.

ANY TIME FEDERAL GRANT MONEY IS USED YOU MUST ALLOW ADDITIONAL TIME FOR THE PROCUREMENT TO BE COMPLETED!

Independent Cost Estimate

This form is required for all Grant funded procurements regardless of dollar amount and must be submitted to Purchasing prior to a bid being issued.

(You may attach a separate sheet to this document if you need additional space)

Department _____

Project _____

Date _____

Person Submitting Request _____

CFR _____

City Requisition #(If Applicable) _____ OR

Project Justification – A narrative and any applicable support documentation, which explains why the department needs the item; including how and where it will be used.

Project Description – A list of salient characteristics and/or minimum specifications.

Project Budget – How much will it cost to complete this project? Explain how this amount was determined. Support documentation, e.g., copied catalog pages, written estimates, etc. should be referenced in your explanation and attached for the file.

Signature

PRICE ANALYSIS FORM

This form is required for all Grant funded procurements regardless of dollar amount and must be submitted to Purchasing prior to a contract or PO being issued.

Department _____

Project/Item Description _____

Date _____

Person Submitting Form _____

CFR _____

CITY REQUISITION #(If Applicable) _____ OR

BID OR QUOTE # _____

List the cost estimate from the ICE (Independent Cost Estimate):\$ _____

Which Vendor/s are you recommending for award: (Multiple awards must be broken down by Vendor and Line Items with total for each Line Item listed on a separate sheet of paper)

TOTAL AMOUNT OF AWARD: \$ _____

List justification for your award: Check One

- Lowest Bid Cost (Quote Fair and Reasonable based on ICE and/or Catalog Pricing)
- Lowest, Most Responsive, Responsible Bidder (Not Lowest Price – You must provide additional information in the Notes or on separate sheet if this box is checked!)

NOTES: _____

IF THE BIDS EXCEED THE ICE YOU MAY NEED TO COMPLETE A COST ANALYSIS SHEET. CONTACT PURCHASING FOR MORE INFORMATION.

ADDITIONAL DOCUMENTATION AND INFORMATION CAN BE ATTACHED ON A SEPARATE SHEET OF PAPER IF NECESSARY.

Appendix IX: Cost Analysis Form

PAGE OF

COST ANALYSIS SUMMARY (For New Contracts Including Letter Contracts) (See Instructions below)							
SOLICITATION #				SUPPLIES AND/OR SERVICES TO BE FURNISHED			
PREPARER'S NAME, DEPARTMENT, TITLE, PHONE							
DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED				APPROVAL SIGNATURE			
DETAIL DESCRIPTION OF COST ELEMENTS							
1. DIRECT MATERIAL			Vendor A Proposal	Vendor B Proposal	Independent Estimate	Analysis	
A. PURCHASED PARTS							
B. SUBCONTRACTED ITEMS							
C. OTHER - (1) RAW MATERIAL							
(2) STANDARD COMMERCIAL ITEMS							
<i>TOTAL DIRECT MATERIAL</i>							
2. MATERIAL OVERHEAD (RATE % x \$ BASE *)							
3. DIRECT LABOR		ESTIMATE HOURS	RATE/ HOUR	Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
<i>TOTAL DIRECT LABOR</i>							
4. LABOR OVERHEAD				Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
OH Rate X BASE (labor total above)							
<i>TOTAL LABOR OVERHEAD</i>							
5. OTHER DIRECT COSTS			Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance	
A. SPECIAL TOOLING/EQUIPMENT							
<i>TOTAL SPECIAL TOOLING/EQUIPMENT</i>							
B. TRAVEL							
(1) TRANSPORTATION							

(2) PER DIEM OR SUBSISTENCE				
<i>TOTAL TRAVEL</i>		<input type="checkbox"/>		
DETAIL DESCRIPTION OF COST ELEMENTS (continued)	Vendor A (\$)	Vendor B (\$)	Independe nt Estimate	Variance
C. INDIVIDUAL CONSULTANT SERVICES				
<i>TOTAL INDIVIDUAL CONSULTANT SERVICES</i>				
D. OTHER				
<i>TOTAL OTHER</i>				
E. SUBTOTAL DIRECT COST AND OVERHEAD				
6. GENERAL AND ADMINISTRATIVE (G&A) RATE %				
X \$ BASE (Use 5.E above)				
7. ROYALTIES (if any)				
8. SUBTOTAL ESTIMATED COST				
9. CONTRACT FACILITIES CAPITAL AND COST OF MONEY				
10. SUBTOTAL ESTIMATED COST				
11. FEE OR PROFIT				
12. TOTAL ESTIMATED COST AND FEE OR PROFIT				
13. Discounts				
14. Option Costs (specify)				
15. ADJUSTED COST				

SEE ANALYSIS GUIDELINES FOR ASSISTANCE IN COMPLETING THIS FORM.

ANALYSIS GUIDELINES

1. **DIRECT MATERIAL**

- A. Analyze Purchased Parts: Provide a consolidated price analysis of material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.).
- B. Subcontracted Items: Analyze the total cost of sub contract effort and supporting written quotations from the prospective subcontractors.
- C. Other:
 - (1) Raw Material: Review any materials in a form or state that requires further processing. Analyze priced quantities of items required for the proposal. Consider alternatives and total cost impact.
 - (2) Standard Commercial Items: Analyze proposed items that offeror will provide, in whole or in part, and review the basis for pricing. Consider whether these could be provided at lower cost from another source.

2. **MATERIAL OVERHEAD**

- A. Verify that this cost is not computed as part of labor overhead (Item 4) or General and Administrative (G&A) (Item 6).

3. **DIRECT LABOR**

- A. Analyze the hourly rate and the total hours for each individual (if known) and discipline of direct labor proposed. Determine whether actual rates or escalated rates are used. If escalation is included, analyze the degree (percent) and rationale used. Compare percentage of total that labor represents for each bid.

4. **LABOR OVERHEAD**

- A. Analyze comparative rates and ensure these costs are not computed as part of G&A. Determine if Government Audited rates are available.

5. **OTHER DIRECT COSTS**

- A. Special Tooling/Equipment: Analyze price and necessity of specific equipment and unite prices.
- B. Travel: Analyze each trip proposed and the persons (or disciplines) designated to make each trip. Compare and check costs.
- C. Individual Consultant Services: Analyze the proposed contemplated consulting. Compare to independent estimate of the amount of the services estimated to be required and match the consultants' quoted daily or hourly rate to known benchmarks.
- D. Other Costs: Review all other direct charge costs not otherwise included in the categories described above (e.g., services of specialized trades, computer services, preservation, packaging and packing, leasing of equipment and provided bases for pricing. Scan for duplication or omissions.

6. **GENERAL AND ADMINISTRATIVE EXPENSE**
 - A. See notes on labor overhead above and check whether the base has been approved by a Government audit agency for use in proposals.

7. **ROYALTIES**
 - A. If more than \$250, analyze the following information for each separate royalty or license fee; name and address of licensor; date of license agreement patent numbers, patent application serial numbers, or other basis on which the royalty is payable; brief description (including any part of model numbers or each contract item or component on which the royalty is payable); percentage or dollar rate of royalty per unit; unit price of contract item; number of units; and total dollar amount of royalties.

8. **SUBTOTAL ESTIMATED COST**
 - A. Compare the total of all direct and indirect costs excluding Cost of Money and Fee or Profit. Note reasons for differences.

9. **CONTRACT FACILITIES CAPITAL AND COST OF MONEY**
 - A. Analyze the offerors' supporting calculations and compare to known standard.

10. **SUBTOTAL ESTIMATED COST**
 - A. This is the total of all proposed costs excluding Fee or Profit. Determine the competitive range. Question outliers.

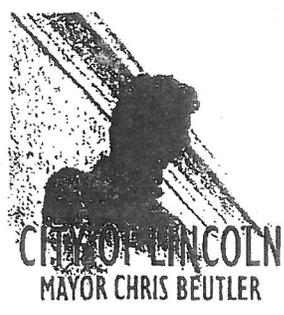
11. **FEE OR PROFIT**
 - A. Review the total of all proposed Fees or Profit. Remember that many grants prohibit cost plus percentage of cost contracting, and may cap A&E profits.

12. **TOTAL ESTIMATED COST AND FEE OR PROFIT**
 - A. Analyze the range of total estimated costs including Fee or Profit, and explain the variance to an independent estimate. Identify areas for negotiation or areas to be challenged. Explain your conclusions regarding fair and reasonable pricing.

13. **DISCOUNTS**
 - A. Review basis for Discounts and range between offers.

83442

smart # 10090071
9-13-10/law/tb



CITY OF LINCOLN
EXECUTIVE ORDER

NO. 083442

BY VIRTUE OF THE AUTHORITY VESTED IN ME by the Charter of the City of Lincoln,

Nebraska:

Whereas federal, state or other grant funding sources, mechanisms, assistance, contributions or contractual partnerships (hereinafter referred to as "Program") are a vital component of City resources, functions and programs; and

Whereas the City, by the agreement to such Program participation, is obligated to comply with the requirements associated therewith; and

Whereas, the City shall implement the following procedures to ensure compliance with and continued participation in such Program.

Therefore, I hereby direct that the City Departments involved in any such Program participation to do the following:

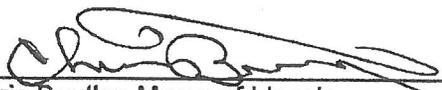
- 1) The Department (Program Recipient) submitting an application for or entering into a contract for Program participation shall be knowledgeable of all Program requirements associated and required for the City's participation;
- 2) If the Program participation requires procurement procedures that must be followed by the City in order to receive or maintain eligibility for the Program, the Program Recipient must provide the Purchasing Agent with a written, dated description of the Program requirements. The Program Recipient is also responsible for supplementing the requirements, as needed, or providing any updated material or information to the Purchasing Agent as it becomes available. The Purchasing Agent shall acknowledge, in writing, receipt of the program requirements and comply with the procurement

obligations of the Program. Prior to procurement under the Program, the Purchasing Agent shall send the draft procurement documents to the Program Recipient for their review of the Purchasing compliance efforts. The Program Recipient shall report, in writing, any deficiencies in the procurement documents to the Purchasing Agent. The Purchasing Agent and Program Recipient shall jointly resolve any such deficiencies in order to meet Program compliance;

3) If the Program participation triggers an obligation or compliance requirements impacting another City department, the Program Recipient must provide such City department a written, dated description of the Program requirements. The impacted City department shall acknowledge, in writing, receipt of the program requirements. The Program Recipient is also responsible for supplementing the requirements, as needed, or providing any updated material or information to such City department as it becomes available. The affected City department shall comply with the requirements of the Program; and;

4) If additional training by any department is required to accomplish compliance with the Program, the Program Recipient shall coordinate and document such training efforts. The Program Recipient shall review all compliance efforts of other departments and divisions related to the Program participation to ensure that the requirements have been met.

Dated this 15 day of Sept, 2010.


Chris Beutler, Mayor of Lincoln

Approved as to Form & Legality:


Assistant City Attorney

- 12 Equal Employment Opportunity E.pdf (5KB) [View]
- 13 Notice Regarding the Purchase of American-Made Equipment and Products.pdf (3KB) [View]
- 14 Patent Rights E.pdf (4KB) [View]
- 15 Prohibited Activities.pdf (3KB) [View]
- 16 Religious Organization.pdf (3KB) [View]
- 17 Reporting Requirements and Regulations E.pdf (3KB) [View]
- 18 Required Use of American Iron- Steel- and Manufactured Goods.pdf (9KB) [View]
- 19 Retention of Records E.pdf (3KB) [View]
- 20 Subcontract Requirements.pdf (3KB) [View]
- 21 Termination for Convenience Cause E.pdf (4KB) [View]
- 22 CITY PROTEST POLICY.pdf (262KB) [View]

Items 1-15 shown of 22 Page 1 of 2 shown

Bid Attributes

# Name	Note	Response Type
1 Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Required Checkbox
2 Federal Bidding Documents and Compliance	I have read and understand the Federal Forms attached to this bid and hereby agree to comply with the provisions as they are listed in the forms.	Required Checkbox
3 Protest Procedures	I acknowledge that I have read and understand the City of Lincoln Bid Protest procedures. I further recognize that in the event a protest is denied by the City, I may file a protest with the Federal Grant Provider after exhausting all administrative remedies with the City. For further information on a protest, a Vendor may contact the City Purchasing Agent.	Required Checkbox
4 Contact	Name of person submitting this bid:	Required Short Text
5 Electronic Signature	Please check here for your electronic signature.	Required Checkbox
6 Delivery	State number of delivery days ARO. FOB to the City/County at the location specified with all transportation charges paid.	Required Short Text

Items 1-6 shown of 6

1

Bid Messages

*New

No Bid Messages

Bid Line Items

Line Specification

1 Commodity

Qty UOM Description

3,000 EA Compact Fluorescent Lamps (CFLs)
Individually Packaged

Manufacturer: Phillips or Equivalent

Commodity: Electrical Equipment and Supplies (Except Cable and Wire)

Item Notes: The CFL light bulbs being requested shall have the following salient characteristics:

- 13-14 Watt
- 2700 - 3500 K Temperature
- 800 - 900 Lumens
- 10,000 - 12,000 Hours of Life Expectancy
- Screw-in for standard household or office lighting fixtures
- Philips Mini Twister 13 Watt Soft White

OR

Sylvania 13 Watt Mini CFL Light Bulb - 60 W Equal - Warm White 2700K - Spring Lamp

OR

Brands and models with equal salient characteristics will also be considered. (You may include pricing for more than one bulb in the Supplier Notes or as alternates.
Price must include delivery.

Items 1-1 shown of 1

1



Log Off Help
 Welcome Robert Walla!
 Server Time (Central): 3:38:46 pm

Home Bids Suppliers Admin
 Draft Issued Closed Awarded Cancelled

Bid Detail

Return Status Extend Addendum Invitations Copy Close Cancel Documents Extract History

Bid Information

Organization Lincoln Purchasing (Lincoln Purchasing)
Buyer Name Robert Walla Asst. Purchasing Agent
Buyer Email rwalla@lincoln.ne.gov
Buyer Phone 1 (402) 441-8309
Buyer Fax 1 (402) 441-6513

Bid Number 3572
Bid Title Compact Florescent Bulbs (CFL) - Lincoln Energy Challenge Supplies
Bid Type Quotation Request
Bid Security Sealed
Invitation Style Public - All matching suppliers
Issue Date & Time 6/15/2011 11:05:43 AM Central
Close Date & Time 6/21/2011 10:00:00 PM Central
Bid Notes
Invitation Display Show Invited Suppliers
Participation Display Hide Participants
Response Attachments Yes
Supplier Retraction Yes
Display on Public List Yes
PDF Invite Available Yes
Bid Status Issued
Status Reason Bid request issued by the system.

Contact Information

Address Purchasing\City & County
 440 S. 8th St.
 Lincoln, NE 68508 USA

Contact Name Robert Walla Asst. Purchasing Agent
Contact Phone 1 (402) 441-8309
Contact Fax 1 (402) 441-6513
Contact Email rwalla@lincoln.ne.gov

Ship to Information

Address Cleaner Greener Lincoln
 2143 O Street
 Lincoln, NE 68508 USA

Contact Name
Contact Phone (402) 441-7658
Contact Fax
Contact Email

Bill to Information

Address Cleaner Greener Lincoln
 2143 O Street
 Lincoln, NE 68510 USA

Contact Name
Contact Phone (402) 441-7658
Contact Fax
Contact Email

Event Activities

No Event Activities

Bid Attachments

#	Name	Description
1	Instructions to Bidders- City - A 12-10.pdf (84KB) [View]	Instructions to Bidders
2	Access to Records E.pdf (5KB) [View]	Access to Records
3	Clean Air Act and Clean Water Act.pdf (3KB) [View]	Clean Air Act and Clean Water Act
4	Conflict of Interest.pdf (3KB) [View]	Conflict of Interest
5	Contract Work Hours and Safety Standards Act E.pdf (4KB) [View]	Contract Work Hours and Safety Standards Act
6	Copyrights and Rights in Data E.pdf (8KB) [View]	Copyrights and Rights in Data
7	Disclosure and Reporting Requirements and Regulations E.pdf (3KB) [View]	Disclosure and Reporting Requirements and Regulations
8	Drug free Workplace Requirements.pdf (3KB) [View]	Drug free Workplace Requirements
9	ENERGY GRANT Government-Wide Debarment and Suspension.pdf (4KB) [View]	ENERGY GRANT Government-Wide Debarment and Suspension
10	ENERGY GRANTS Recycled Products.pdf (3KB) [View]	ENERGY GRANTS Recycled Products
11	Energy Policy and Conservation Act E.pdf (3KB) [View]	Energy Policy and Conservation Act

Purchasing With Federal Grant Funds

If you use grant money to buy goods and services, make sure you're following the correct procedures.

2003

By Henry Flood

Each year the federal government makes more than \$200 billion in grants, and grantees use a substantial portion of that money to purchase goods and services. But government grants come with many strings attached, including the requirement that a grantee's purchasing system adhere to strict standards and promote "full and open competition."

It is important to understand the components and purpose of a good purchasing system. Because purchasing with grant funds is heavily regulated by specific policies and operational procedures, it is also important to know which purchasing rules and policies to follow and how to resolve conflicts in those rules and policies.

Local governments and Indian tribes are permitted to use their own purchasing policies and procedures as long as those policies and procedures are substantially similar to the standards of the Common Rule. If there are areas of deficiency, then the federal policies and procedures must take precedence.

Prior to the publication of the uniform grant administration circulars, federal funds were treated more like gifts, which led to many administrative abuses on the part of grantees. The establishment of minimum purchasing standards was one of the many issues addressed by the uniform grant administration requirements and a very important one.

Don't assume that the standards spelled out in the circulars are the only rules that will apply to purchases made with grant funds. Some federal agencies have advance approval requirements for certain purchases and others preclude specific purchases. Some funders may also have special rules that affect major purchases with grant monies, and these special rules always supersede any more general purchasing policies.

Grant administrators must take care to review the procurement policy provisions of every grant award package to ensure that all restrictions and special purchase requirements are understood and addressed.

When a federal agency gives you a grant, it does not become a party to your contract award decisions. This means that your agency alone is responsible for the outcomes of your procurement decisions, even if those decisions are subject to review by the grant maker.

As for prospective vendors, they are entitled to have a fair shot at competing for your business. Your purchasing system must be fair, open and treat all prospective vendors equally. To avoid favoritism, you must not award contracts to your friend and relatives and you must avoid actual and apparent conflicts of interest in the solicitation and award of contracts.

Special Concerns

Record-keeping: It is very important to document your purchasing decisions, since good procurement records are needed for contract administration purposes, legal sufficiency of contract actions, justification of purchases and procurement methods, and dispute resolution.

Purchases must be supported with purchase history files that document (1) the need and authority for the purchase; (2) the basis of contractor selection; (3) award cost and price data; (4) any exceptions and justifications concerning limited contracting or sole source awards; and (5) procurement protest and dispute resolution actions.

Fair Share

Federal policies covering grant-funded purchases place a special emphasis on ensuring that small businesses, women and minorities get a fair share of available business. The best way to satisfy this requirement is to incorporate minority participation directly into your acquisition planning and implementation procedures. As a federal grantee, you really are required to reach out to small, women-owned, and minority-owned businesses and to prove that you have done so. The City/County Purchasing Offices does this by sending quotes out to businesses around the country, some of which are designated as MOB or DBE.

City Plans No Appeal of FEMA Audit Revenue Loss

Nov. 18, 2010 | [Julie Small](#) | KPCC

Kevorg Djansezian/Getty Images

A display of pictures of current and former City of Bell council members who were arrested on corruption charges is seen following a news conference on September 21, 2010 in Los Angeles, California.

Share:

California's state controller released the latest audit of the City of Bell's finances today, which found that the city unlawfully spent \$710,000 in grants and other funding from the state and federal governments.

State Controller John Chiang's audit shows that city officials spent the funds without valid contracts in place, paid for services not covered by those funds or awarded contracts without competitive bidding.

Chiang recommends that the city work with federal, state and local governments to recoup the misspent funds. Earlier audits found that Bell officials mismanaged funds and illegally hiked taxes to pay for salaries and pensions.

Chiang says this latest audit brings the City of Bell's total amount of questionable spending to more than \$6 million.

Audit finds city of Bell misspent \$710,000 in state and federal funds

Feb 23 2011

Federal grant money grossly mismanaged

WSBtv Atlanta (Georgia)

City of Flint expecting another penalty after federal audit released

Published: Monday, March 14, 2011, 7:28 PM Updated: Tuesday, March 15, 2011, 9:45 AM

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Federal team reviewing StarTran for deficiencies

Cost/Price Analysis

Q. What is the difference between a cost analysis and a price analysis?

A. A "price analysis" will be the usual procedure followed in a competitive situation and in situations where items are being procured which are sold in the commercial marketplace to the general public. A "price analysis" is an evaluation of the offeror's price relative to the prices being offered by other vendors and being paid by the general public for the same or similar items. The essential factors, which must be present in order to make a "price analysis," are as follows:

- The product must be a "commercial product" (i.e., one for which there is a basis of comparison in the commercial marketplace). Price analysis would not be suitable, for example, for research and development items, or for one-of-a-kind items for which there was no basis of comparison.
- It is not necessary that competing products be exactly identical to the product being offered, but you must be able to compare the products' capabilities and their respective price differences in light of those varying capabilities. By such comparisons one is able to make value judgments that a particular product's performance capabilities warrant a higher or lower price than a competing product.

A "cost analysis" will be required whenever a price analysis cannot be performed. A cost analysis entails the review and evaluation of the separate cost elements and the proposed profit of an offeror's cost proposal. A cost analysis is conducted to perform an opinion on the degree to which the proposed cost, including profit, represents what the performance of the contract 'should cost', assuming reasonable economy and efficiency. A cost analysis will be appropriate in the following situations:

- The product or service being offered is not susceptible to being evaluated against other commercially available items of similar products or services. Examples would include a procurement for professional services where no competing price proposals are submitted, as in a procurement for architectural-engineering services where only one cost proposal is solicited from the highest ranking firm, or a sole-source procurement for other types of services.
- When change orders are issued to contracts requiring the contractor to do work whose cost can only be evaluated by examining the various cost elements, such as labor, materials, travel, etc. (Reviewed: July, 2010)

Every contract award must include a determination that the price is fair and reasonable. The extent of the analysis depends on the value and nature of the contract. For small purchases that are sole sourced, it would depend on the nature of the product or service. For example, if the procurement was for standard commercial items sold in substantial quantities to the general public, then a price analysis would be sufficient. If the procurement were for services, then some breakdown of the price would be required to determine that the labor hours, rates, profit, etc., were reasonable.

FREQUENTLY ASKED QUESTIONS FEDERAL GRANT PROCUREMENT

- 1) I've been using this Federal Grant for a number of years, I've had several audits and there has never been a problem. What is different now?

The requirements for Federal Grant Procurement were discovered in the last year by the Purchasing Department and Law Offices. The requirements that we are discussing today, and will be required for future procurement, will ensure that the City and County will be compliant.

- 2) Are we allowed to use the current City/County contracts to purchase products and services using Federal grant money?

Yes and No. The majority of contracts that are currently in place for the City and County do not follow all the guidelines required of Federal grants and do not include any of the documentation that must be included in the bids and contracts.

The exception to this is the purchase of computers and software through Dell and HP and Kenwood radios and parts.

- 3) If we must purchase products and services on our own won't that result in a higher cost due to the lack of volume?

In most cases yes, it will cost more money.

- 4) I've talked to people on the State level who provide the grant money to my agency and they say I can use the City/County Purchasing process to buy products and services. Why is Purchasing saying this isn't correct?

Purchasing has followed up with several State department representatives about this issue. The State usually responds by saying they thought our process already included the forms that were required. Each grant starts out by saying that the Grantee and Subgrantee can use their approved Purchasing policies PROVIDED they include all the requirements of the CFR for that grant.

- 5) I'm not exactly sure what is required to meet the Federal grant procurement requirements for the grant we have, what do I do?

- 1) Read the grant and locate the CFR. Google the CFR and search for the procurement section. Print and read the document and file it with the grant for future reference. Reference the CFR and the requirements in your ICE document and requisition to the Purchasing office.
- 2) Call Purchasing. Bob Walla - 441-8309 or Shelly Hinze - 441-8313. We can work with you to locate the CFR and determine how to proceed with your purchase. We already have a number of the requirements ready to put into a bid and will do our best to assist you in getting what you need as soon as possible.
- 3) City Departments can refer to Executive Order 083442 for information on other requirements associated with Federal grant procurement.

IF YOU HAVE OTHER QUESTIONS, REFER TO THE HANDOUTS GIVEN AT THE 6/21/11 WORKSHOP OR WATCH THE WORKSHOP BY CLICKING ON THE LINK WHICH IS POSTED ON THE PURCHASING WEBSITE.