

# **Yellow Medicine East Federal Purchasing Contract Protocol and Authority**

**Reference:** 200 CFR 200 – Federal General Procurement Standards.

**Personnel Responsible:** Any employee making a purchase on behalf of Yellow Medicine East Schools.

**Effective Date:** December 12, 2022

## **Ethical Practices**

No employee or immediate family member of an employee should have a financial interest, directly or indirectly, in any contract or purchase order for goods or services used by Yellow Medicine East Schools. Employees should not receive, directly or indirectly, from a vendor any promise, obligation, or contract for future reward or compensation (2 CFR 200.318(c)(1)).

If any employee purchases or contracts for goods or services contrary to this policy, the amount may be recovered by appropriate action.

## **Responsibilities of Persons who Purchase**

Employees who supervise the purchase of goods and services on behalf of Yellow Medicine East Schools have the following responsibilities:

- Properly document purchases.
- Maintain vendor histories/records (2 CFR 200.318 (i)).
- Avoid unnecessary or duplicative purchases (2 CFR 200.318(d)).
- Consider leases versus purchase alternatives (2 CFR 200.318(d)).
- Provide information on estimated costs and solicit bids, estimates, or quotations.
- Determine if the purchase of an item through the use of Federal excess and surplus property is beneficial to Yellow Medicine East Schools (2 CFR 200.318(e) and (f)).
- Provide oversight to ensure contractors perform in accordance with terms, conditions, and specifications of contracts or purchases.

## **Purchasing Protocol**

Purchases of less than \$10,000 may be made either by quotation or by direct negotiation in the open market. If practicable, at least two quotations should be obtained and kept on file for a period of at least one year. The following steps should be considered for quotations:

1. Specifications should be drafted by the employee or designee.
2. Specifications should be provided to at least 2 vendors.
3. Upon receipt of the quotations, an award should be made by the employee or designee.

Award recommendations to the Yellow Medicine East Schools Board will be based on, but not limited to, the following general criteria (2 CFR 200.318 (h)):

- a) adherence to all conditions and requirements of bid specifications
- b) total bid price including any discounts, unit price or extended price
- c) good faith of the bidder to meet Yellow Medicine East Schools requirements
- d) experience of the bidder
- e) evaluation of the bidder's ability to service the Yellow Medicine East Schools needs
- f) financial responsibility of the bidder
- g) prior knowledge of and experience with the bidder, in terms of past performances

## **Yellow Medicine East Federal Purchasing Contract Protocol and Authority**

- h) needs and requirements of Yellow Medicine East Schools
- i) experience with products involved
- j) size and location of the bidder
- k) quantity and quality of merchandise offered
- l) product appearance
- m) overall completeness of product line offered
- n) ability of meeting completion and delivery requirements
- o) the successful bidder agrees to comply with the Data Practice Act
- p) Yellow Medicine East Schools shall obtain certification from the contractor that neither the contractor or any of its principal employees are listed on the Excluded Parties List System in SAM (2 CFR 200.318 (h)). Certification will be maintained

### **Uniform Guidance Requirements**

When entering into contracts using federal awards, the contract must contain the following additional contract provisions (2 CFR 200.326):

- a) For contracts using federal grants of \$250,000 or more, the contract provisions must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- b) For contracts and subawards using federal grants of \$250,000 or more, Yellow Medicine East Schools shall comply with the Clean Air Act under 42 U.S.C. 7491-7671q and the Federal Water Pollution Control Act (33 U.S.C 1251-1387).
- c) For contracts or subgrants using federal grants of \$100,000 or more, Yellow Medicine East Schools shall obtain a certification from the contractor or sub-grantee that it complies with the Byrd Anti-Lobbying Amendment under 31 U.S.C. 1352. Certifications will also be collected if the Yellow Medicine East Schools is a sub-recipient of a federal grant. (2 CFR 200.318 (i))
- d) For contracts in excess of \$100,000 using federal awards, Yellow Medicine East Schools will require contractors using the employment of mechanics and laborers to comply with 40 U.S.C. 3702 and 3704. (2 CFR 200.318 (E)).
- e) Contracts in excess of \$10,000 using federal awards must address termination for cause and for convenience by Yellow Medicine East Schools in a manner by which it will be effected and the basis for settlement.
- f) Contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided in 41 CFR 60-1.4b.
- g) All prime construction contracts in excess of \$2,000 must include provisions for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148).
- h) Contracts in excess of \$100,000 that involve the employment of mechanics or laborers must include contract provisions for compliance with the Contract Work Hours Safety Standards Act (40 U.S.C. 3701-3708).
- i) Yellow Medicine East Schools will not enter into contracts with parties debarred, suspended or otherwise excluded in the System for Award Management (SAM).

# **Yellow Medicine East Federal Purchasing Contract Protocol and Authority**

## **Bids and Quotation Specifications**

Preparation – Written specifications should be prepared with the following criteria in mind (2 CFR 200.319):

- a) Conformance to acceptable industry-wide standards.
- b) Clear, definite, and concise.
- c) Describe the performance requirements, rather than its formulation, description, or design.
- d) Framed to permit, to the extent possible, free and full competition.
- e) Consider cost, length, and terms of any warranty provisions, reliability and maintenance costs, and repurchase value of the equipment after a specified number of years.
- f) Should not exclude all but one type or kind except when permitted by law.
- g) Should not call for features or for a level of quality not needed for the intended use, except in cases where such features or the level of quality are essential for some future consideration or result in overall economic advantage to Yellow Medicine East Schools.
- h) If an error in the specification is found, Yellow Medicine East Schools reserves the right to correct the specification with notification to all bidders, or Yellow Medicine East Schools may, in its sole discretion, cancel the bid call. Yellow Medicine East Schools may waive any minor irregularity or error which it finds, in the best interest of Yellow Medicine East Schools.
- i) Any changes to specifications must be mailed to all who are known by the applicable department head to have received the specification. Any interested respondents shall promptly notify the applicable department head of any ambiguity, inconsistency or error in writing, which may be discovered upon examination of the specification. Clarification or interpretation of the specification shall only be made by the applicable employee or Yellow Medicine East Schools Board.
- j) The Yellow Medicine East Schools Board may require that a bidder provide a bid bond or other security at an amount satisfactory to the Board as a proposal guaranty that the bidder will enter into a contract if its bid is accepted. The Yellow Medicine East Schools Board may also require other bonds and insurance as appropriate.

## **Restrictive Specifications**

Some latitude is permissible in specifying features of certain items. While it is not necessary to prepare specifications in a manner that every conceivable manufacturer could compete, Yellow Medicine East Schools must be able to demonstrate a clear reason for any restrictive specifications and provide clear and accurate description of technical requirements. If a minimum standard for wages with respect to the employees of a contractor is desired by Yellow Medicine East Schools or is required for compliance with State or Federal laws, the specification should include such a prevailing wage rate unless otherwise provided in any applicable Federal law. (2 CFR 200.319)

## **Professional Services**

Purchasing professional services creates a different relationship than normally exists in a buyer-seller transaction. The purchasing protocol needs to take into consideration qualifications, character, and mutual trust. For these reasons, qualifications, competency, and availability of the most qualified firms must be considered initially and independent of cost. Procuring professional services consists of three major elements:

- a) Submittal of proposals;
- b) Review of proposals submitted and selection of preferred proposal; and

## **Yellow Medicine East Federal Purchasing Contract Protocol and Authority**

- c) Negotiation of price.

For purposes of this policy, professional services include at least the following:

- a) Architectural and engineering services;
- b) Personnel consultation;
- c) Technology consultation;
- d) Legal services
- e) Financial consultation; and
- f) Insurance consultation. (2 CFR 200.319 (d)(5))

### **Documentation of Purchasing Process**

Proper documentation of the purchasing process is necessary for accountability. Persons making purchasing decisions should be able to provide proof of compliance with the purchasing policy and State and Federal law. (2 CFR 200.318 (i))