

# **Lamoille North Supervisory Union**

## **Federal Procurement Procedures**

### **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.

### **General Standards Include (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.
- 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 judgment, for the settlement of all contractual and administrative issues arising out of procurements.
- 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 include, but are not limited to the following:
  - Placing unreasonable requirements on firms for them to qualify to do business;
  - Requiring unnecessary experience and excessive bonding;
  - Noncompetitive pricing practices between firms or between affiliated companies;
  - Noncompetitive contracts to consultants that are on retainer contracts;
  - Organizational conflicts of interest;

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- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- 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. 2 CFR §200.319 (b)
- Procedures for procurement transactions must ensure that all solicitations meet the requirements detailed in 2 CFR §200.319 (d)(1)(2)(3)
- Noncompetitive procurements can only be awarded when the circumstances outlined in 2 CFR § 200.320(c) apply.

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

(a) The non-Federal entity should ensure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms (See U.S. Department of Labor's list) are considered as set forth below when contracting.

(b) Such consideration means:

- (1) These business types are included on solicitation lists;
- (2) These business types are solicited whenever they are deemed eligible as potential sources;
- (3) Dividing procurement transactions into separate procurements to permit maximum participation by these business types;
- (4) Establishing delivery schedules (for example, the percentage of an order to be delivered by a given date of each month) that encourage participation by these business types;
- (5) Utilizing organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring a contractor under a Federal award to apply this section to subcontracts.

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

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, 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

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States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "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.

(2) "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.

### **Never Contract with the Enemy (2 CFR §200.215)**

Federal agencies, recipients, and subrecipients are subject to the guidance implementing Never Contract with the Enemy in 2 CFR part 183. The guidance in 2 CFR part 183 affects covered contracts, grants, and cooperative agreements that are expected to exceed \$50,000 during the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

## **Procurement Steps**

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

**Step 2:** Determine method of procurement.

There are three types of procurement informal, formal, and non-competitive. Furthermore, informal and formal procurement are each broken down into two different methods.

1. Informal procurement methods:
  - Micro-purchase
  - Simplified acquisition
2. Formal procurement methods:

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- Sealed bids
  - Proposals
3. Non-Competitive

### **Informal Procurement Methods:**

Micro-purchase— The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold as set annually by the district. Information on the current threshold can be found in Lamoille North Supervisory Union's General Grant Purchase Procurement Procedures. (\$2,000 if Davis-Bacon Act applies).

- Purchases may be awarded without soliciting competitive price or rate quotations if the recipient or subrecipient considers the price reasonable based on research, experience, purchase history, or other information; and maintains documents to support its conclusion.
- To the extent practicable, purchases should be distributed among qualified suppliers.
- Purchases exceeding the threshold cannot be divided solely to meet this threshold.

Simplified Acquisition (formerly small purchase)- The acquisition of services, supplies, or other property, the aggregate dollar amount of which is higher than the micro-purchase threshold and does not exceed the Simplified Acquisition Threshold as set annually by the district. Information on the current threshold can be found Lamoille North Supervisory Union's General Grant Purchase Procurement Procedures.

- Must obtain an adequate number of quotes / sources and document the reason vendor was selected.
  - Vendor/costs may be identified through internet research, telephone calls, advertisement, email or written requests for information
- Purchases subject to Vermont bid Law (16 V.S.A. §559) must meet both VT Statutes and federal standards

### **Formal Procurement Methods:**

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Sealed Bids— The acquisition of services, supplies, or other property, the aggregate dollar amount of which is higher than the Simplified Acquisition Threshold as set annually by the district and when a complete, adequate and realistic specification or purchase description is available.

- Bids must be solicited from an adequate number of qualified 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
- The selection of the successful bidder can be made principally on the basis of price.
- 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— The acquisition of services, supplies, or other property, the aggregate dollar amount of which is higher than the Simplified Acquisition Threshold as set annually by the district and when a sealed bid is not appropriate such as a fixed price or cost reimbursement type contract.

- Proposals must be solicited from an adequate number of qualified offerors (two or more)
- 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 responsible offeror whose proposal is most advantageous to the district, with price and other factors considered
- The district may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror 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 through A/E firms that are a potential source to perform the proposed effort.
- May be subject to Vermont bid Law (16 V.S.A. §559) must meet both VT statutes and federal standards

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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 acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold or trigger the VT bid law
- The item is available only from a single source
- The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation
- The Federal awarding agency or pass-through entity (normally the AOE) expressly authorizes the noncompetitive procurement 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 both still required
- After solicitation of a number of sources, competition is determined inadequate

**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 by completing an LNSU Procurement Documentation form.

Documentation must include:

- Method of procurement
- Rationale for vendor selection
- Solicitation method (advertisement, invitation, internet research, etc.) \*
- All vendor proposals (print-outs of internet research, phone conversation notes, bids, etc.) \*

\*does not apply when using Micro-purchase method

**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, rate of pay, or basis for the contract price

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- Invoice requirements, clear billing information and break down of charges (Note: For contracted services only, payment cannot be made until after services have been provided.)
- Signature by authorized individual as per district 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
- If the contract is for construction services, exceeds your Simplified Acquisition Threshold, or exceeds \$100,000 refer to 2 CFR §200 Appendix II for additional required contract provisions that may be applicable.
- Allowable cost only (sales tax, alcohol, donations, entertainment, lobbying, gift cards...are not allowable)
- Suspension/Debarment results from Step 4

**Step 7:** You have now completed the additional steps necessary for federal procurement and may proceed based on your District's / SU's purchasing process.

**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 was obligated 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