

Grant Procurement and Administration

2.2.3

PURPOSE

It is the policy of the City Redlands to seek grant funds from various agencies to enhance City operations. The majority of grantors stipulate that the grantee's procurement regulations shall be followed. However, some of the granting agencies establish rules for the procurement of goods and services. This policy establishes the responsibilities to ensure that the City follows applicable procurement rules and regulations

POLICY

It is the policy of the City of Redlands to adhere to grantor's procurement regulations and in accordance with the City Municipal Code No. 2.16.260, titled "Federal Requirements".

PROCEDURES FOR PROCUREMENTS WITH GRANT FUNDS

PRIOR TO THE SUBMISSION OF APPLICATIONS FOR GRANT FUNDS:

Requesting Department:

1. Applying staff must review the grant application with Finance to ensure that there is sufficient available funds and sufficient time to procure goods and services with grant funds given the expected approval date for grant funds and the restrictions for spending grant funds. Finance approval must be granted prior to submitting grant applications that require use of City Funds.
2. When Federal funds are used, the "**Federal Grant Procurement**" policy based on the Code of Federal Regulation (CFR) below must be followed. (Pages 8-18)

POST AWARD GRANT ADMINISTRATION:

After Receipt of Notification to Receive Grant Funds Requesting Department shall:

1. Determines the need for a procurement funded through grants.
2. Reviews the grant to identify any regulations pertaining to procurement of goods or services with the grant funds.
3. Follow the "**Financial Post Award Administration**" Policy below. (Pages 3-7)
4. Communicates the grant funding source (Federal, State, other) and applicable procurement regulations on the purchase requisition and via email, if necessary.

Grant Procurement and Administration**2.2.3****Department/ Purchasing shall:**

1. Reviews the received procurement regulations and incorporates them, if necessary, in the procurement process.
2. Reviews the federal list of debarred contractors (<http://www.sam.gov/>) prior to award of contract or any list as stipulated by grant regulations.
3. Documents the process and results in the procurement file.

Grant Procurement and Administration

2.2.3

POST AWARD GRANT ADMINISTRATION

PURPOSE

The purpose of this policy is to provide guidance of post award grant administration to department heads, program managers, Management Services / Finance staff and other department staff to ensure compliance with the awarding agencies' terms and conditions, as well as the policies and procedures of the City of Redlands.

POLICY

It is the policy of the City of Redlands to adhere to all established requirements for grand administration.

GRANT ACCEPTANCE

Upon receipt of the grant award from the awarding agency, the department head or program manager must prepare a Request for Council Action (RCA) for the acceptance of the grant. If the grant has a required match, the department head or program manager must clearly indicate in the RCA the source of funding for the match. The department head must also compare the department's budget to the grant budget to determine if additional appropriation is necessary. If additional appropriation is required, the department head must complete a Request for Additional Appropriation form and obtain the recommendation/signature of the finance director or the assistant finance director and the city manager. Once all signatures have been obtained, the department head will attach the completed form to the RCA and place the item to the City Council agenda.

The City Council will accept or reject the grant through a City Council meeting. Once approved by the City Council, the department head will forward the following documentation to Finance Division:

- Copy of the approved RCA
- Original Request for Additional Appropriation, if applicable, duly signed by the department head, finance director or assistant finance director and city manager, and noted & stamped by the city clerk
- Copy of the grant award

NEW GRANT ACCOUNT SETUP

Upon obtaining a copy of the approved RCA, grant award and the original Request for Additional Appropriation form, the Finance Division will assign a unique job ledger code and the corresponding orgkey for the grant and will notify the department head of the account code via e-mail. This will allow the City to track the revenues and expenditures for each grant separately. The Finance Division will also enter the requested additional budget appropriation items in the accounting software.

The department head or program manager should notify the Finance Division in the event of:

- Any type of modification to the original terms and conditions (i.e. change in scope of work, performance period, etc.)
- Budget amendments

Grant Procurement and Administration

2.2.3

- There is a notification that the grant will be terminated

GRANT MASTER FILE AND FISCAL FILE

The program manager is required to maintain a grant master file in order to document all major actions from the grant award through closeout. The master file should include the following documents:

- Grant Application: Funding opportunity announcement and the original grant application that was submitted to the awarding agency.
- Grant Award Documents: Grant award, terms and conditions, assurances, award modifications, and approved RCA for the acceptance of the award. Also include subrecipient agreement if portion of the award was transferred to a subrecipient.
- Financial Documents: Approved budget and budget amendments.
- Grant Reports: Periodic and Final Financial and/or Performance reports including any communications regarding these reports.
- Grant Reimbursement/Payment Requests: Reimbursement/Payment Request form, supporting documents including copy of invoices, copy of transmittal letter, copy of check payment or EFT notification and copy of Deposit Transmittal Form (DTF).
- General Communications: Internal or external communications pertaining to the grant.

To assist in administering the grant, the Finance Division should also maintain a fiscal file. The fiscal file contains all documentation related to the financial history of the grant. To ensure the creation of the fiscal file, the program manager should provide the following documents to Finance Division:

- Executed copy of the grant Award and approved RCA
- Terms & Conditions
- Award modifications
- Approved grant budget
- Budget modifications
- Financial Reports
- Reimbursement/Payment Requests and supporting documentation

Grant files must be retained in accordance with the City of Redland's file retention policy or, for federal awards, the retention requirements for records per 2 CFR 200-333 whichever is more restrictive.

GRANT MONITORING

The program manager is responsible for the continuous monitoring of the grant's financial status, timelines, objectives, reporting requirements, and compliance with all applicable federal, state, and/or local regulations. The program manager must also ensure that grant expenditures are allowable, necessary, reasonable, allocable, and incurred within the grant's period of performance.

To assist the program manager in monitoring the financial status of the grant, Finance Division will provide a grant recap/report to the program manager once a month. This report will include information, such as money already expended, remaining funding, budget to actual analysis, payments already received, grant

Grant Procurement and Administration

2.2.3

receivable or advance payment balance and, if applicable, matching funds already provided. The program manager must review the grant recap and notify the Finance Division promptly of any discrepancies noted.

GRANT PAYMENT/REIMBURSEMENT

The program manager must only expend funds as laid out in the scope of work/grant budget and within the specified time period allowed by the grant. All supporting documentation (i.e. invoices and related backup, contracts, etc.) must be reviewed to ensure only allowable expenditures are charged to the grant. The program manager must obtain an updated grant recap and a JL Summary report from Finance Division for the expenditure period covered by the payment request so he or she can verify the accuracy of amount being claimed before submission to the awarding agency. The program manager must see to it that reimbursement requests are prepared and submitted in accordance with the award terms and conditions. Any payments received in advance must be used within the specified time period.

Once the payment request has been submitted, the program manager should forward a copy of the reimbursement request and any supporting documentation to Finance Division. The program manager must also complete and provide a Deposit Transmittal Form to the Revenue Division to ensure grant revenues are promptly identified and posted to the correct account code. Once payment is received, the Revenue Division will provide a copy of the processed Deposit Transmittal Form to the program manager and the Finance Division.

GRANT REPORTING

When preparing the required financial report, or the SF425 report for federal grants, the program manager must obtain a JL summary report for the period covered by the report from Finance Division to ensure accuracy of the financial data being reported. Once the financial report is prepared, it will be submitted to the department head or appropriate City management personnel for review to ensure the report is mathematically accurate and supporting documentation (i.e. JL summary report, etc.) agrees to the report. The department head or City management personnel will send the program manager an email indicating review and approval of the prepared financial report.

The program manager is responsible for complying with the due dates and other reporting requirements specified in the award terms and conditions. Once submitted, the program manager should forward a copy of the financial report to the Finance Division.

PROCUREMENT USING GRANT FUNDS

When submitting purchase requisitions with the intention of using grant funds, the department head or program manager must clearly indicate the source of funding for the procurement. The department head or program manager must also communicate to the purchasing agent or delegated staff the applicable procurement standards for the grant preferably via e-mail. The purchasing agent or delegated staff must review the grant procurement standards and incorporate them, if necessary, in the procurement process. If Federal funding is involved, the department head, program manager and purchasing agent must ensure the procurement standards outlined in 2 CFR 200-320 and the required suspension and debarment testing- 2 CFR 200-213 - for covered transactions are met. Covered transactions include procurement of

Grant Procurement and Administration

2.2.3

goods and services that equal or exceed \$25,000, non-procurement transactions as defined in 2 CFR 180.970 and subcontracts/sub awards that equal or exceed \$25,000. List of debarred or excluded vendors can be found in the System for Award Management web page and can be accessed at the following address: <http://www.sam.gov>. The purchasing agent or delegated staff must document the result of the sam.gov search in the procurement file and be made available to the department head, program manager, Finance Division and/or external auditors upon request.

In some cases, the City of Redlands' procurement standards may be more restrictive than the grant's procurement standards. For example, 2 CFR 200-320 allows the use of procurement by small purchase method when acquiring goods or services that do not cost more than the simplified acquisition threshold (currently at \$150,000). In this method of procurement, informal solicitation of price or rate quotes from adequate number of sources is acceptable. However, the City of Redlands' procurement standards require a formal bid with minimum three quotes for purchases over \$50,000. In such a circumstance, the purchasing agent or delegated staff must follow the City of Redlands' procurement standards because it is more restrictive.

CAPITAL ASSET MANAGEMENT

The program manager should notify the Finance Division of any capital assets acquired using grant funds so they can be properly identified in the capital asset schedule maintained by Finance staff. Such assets will be accounted and managed in accordance with the terms and conditions of the grant. Any equipment of real property funded by federal funds shall be accounted and managed in accordance with the federal requirements outlined in 2 CFR 200.310, 2 CFR 200-311, and 2 CFR 200.313. Please refer to the 2.2.2 Capital Asset Management Policy for more information.

GRANT FUNDED SALARIES AND WAGES

All payroll related costs charged to the grant must reflect actual time spent to the grant. The department head and program manager is responsible in ensuring that actual hours are charged to the grant appropriately.

If the position is 100% funded by a grant, the department head must indicate the account number with the applicable job ledger code in the employee's Personnel Action Form (PAF). The account number distribution is then entered by the Human Resources Department in the payroll system ensuring salary charges are coded to the appropriate grant. Usually, grant-funded positions are co-terminus with the grant. In the event of any change on the employee's employment status, the department head must promptly complete a PAF indicating the new account number with the applicable job ledger code and the start date for the status change.

Any City employee whose salary is paid in part by a grant must develop an activity log that will allow him/her to track actual time and effort performed for the grant. When completing the required bi-weekly timesheet, the employee must itemized time by activity; indicating the account number and the applicable job ledger code for each activity. The program manager will review/sign the timesheet ensuring the following: (1) total hours allocated to the grant is based on actual hours recorded in the employee's

Grant Procurement and Administration

2.2.3

activity log; and (2) the account numbers and job ledger codes being used are correct ensuring proper distribution of wages. Once reviewed, the program manager will forward the timesheet to the department head for approval/signature. Once approved by the department head, it will go to Finance Division to the attention of the payroll technician for processing.

GRANT CLOSEOUT

A grant is considered completed when all work funded by the grant is completed or the grant's period of performance ends. If work cannot be completed within the specified period of performance, the project manager is responsible of ensuring that a continuation or no-cost extension is requested in a timely manner.

Each grant has specific closeout procedures to which the City must adhere to. The closeout documentation and the due dates for submission of required final reports and final payment request are stated in the terms and conditions of the award. The program manager must see to it that all of the required work for the grant are completed, no further expenditures are incurred after the grant's period of performance and all invoices are paid and posted to the accounting software before finalizing the final financial report and the final payment request.

To ensure accuracy of the final financial report and final payment request, the program manager must obtain a final grant recap from the Finance Division and a JL summary report covering the grant's period of performance. These reports must be reviewed and reconciled. Once the final financial report and final payment request have been prepared, it will be submitted to the department head or appropriate City management personnel for review to ensure they are mathematically accurate and supporting documentation agrees to the final financial report/final payment request. The department head or City management personnel will send the program manager an email indicating review and approval of the prepared final financial report/final payment request.

The program manager is responsible for complying with the due dates specified in the award terms and conditions.

Grant Procurement and Administration

2.2.3

PROCUREMENT WITH FEDERAL GRANT POLICY

PURPOSE

The City of Redlands is a potential recipient of Federal Grant Funds and as such, is required to conform with Federal laws and standards identified in 2 CFR 200.318-326. Therefore, procurements in which Federal funds are contemplated or used must be conducted in accordance with Federal procurement requirements. This policy explains the City Procurement Policy with respect to Federally-funded procurements by providing a cross-reference between Federal procurement regulations, explains the applicable City procurement policy and how it conforms to Federal requirements.

CFR Reference: 2CFR 200.318(a)

PROCEDURES

City staff shall consult this policy when dealing with any procurements in which Federal funds are contemplated or used. This document will be updated as needed to reflect changes in Federal regulations. All procurements in which Federal funds are contemplated or used must be conducted in accordance with Federal procurement requirements. This policy explains the applicable City procurement policy and how it conforms to Federal requirements.

POLICY

GENERAL PROCUREMENT STANDARDS

CFR Reference: 2CFR 200.318

Goal

All purchasing functions are to be conducted with the highest ethical standard. Department Directors, division managers and employees must remain constantly aware of their responsibilities when spending public funds. The purchasing division will provide a purchasing process that implements and maintains the requirements of the City Municipal Code 2.16 and provide a centralized purchasing system to:

- A. Establish a purchasing program providing for competitive bidding in the open market and obtaining the greatest possible advantage to the City.
- B. Provide a cost effective purchasing process utilizing high ethical standards.
- C. Obtain the appropriate quality of materials and services at the lowest ultimate cost and in a timely manner
- D. Provide a system to purchase, using effective fiscal controls that ensure adherence to budget, expenditures and encumbrances. Obtain appropriate levels of approval as established herein.
- E. Award purchases to the lowest responsive and most responsible vendors meeting specifications and city requirements.

Grant Procurement and Administration

2.2.3

- F. Promote and maintain good relationship with vendors. City staff shall deal in a professional manner and promote equal opportunity, fairness and courtesy in all vendor relations.

Staff Responsibilities

It is the responsibility of all City of Redlands staff assigned to purchase materials, equipment, supplies and services for all City functions to follow the established Procurement Process. These purchasing activities shall be conducted in the most economical and efficient manner.

Responsibilities of the Purchasing Agent/Delegated Staff

Pursuant to the City Municipal Code the Purchasing Agent is responsible for administration of purchases for all City departments. The City Municipal Code provides for the delegation of some or all of the purchasing responsibilities to the Department Director and to his/her designee. With the promulgation of this provision, Department Directors are responsible for ensuring their department purchases are made in accordance with the Purchasing Guidelines. The Purchasing Agent is responsible for oversight of the Purchasing office and to ensure adherence to the rules and regulations of the City Municipal Code 2.16. The Purchasing Agent will provide assistance to Department Directors/designees to comply with the requirements of the purchasing.

The Department Director may delegate the authority of procurement to staff member(s) within his/hers department and division. The designated staff carries the full responsibility for the purchasing processes designated to them.

Code of Ethics

- A. Regard public service as a sacred trust, giving primary consideration to the interests of the City.
- B. Purchase the best value obtainable, securing the maximum benefit for each tax dollar expended.
- C. Allow for full and open competition and not participate in uniform bidding.
- D. Know and respect their obligations to the public, private sector and using agencies.
- E. Accord vendor representatives courteous treatment remembering that they are important sources of information and assistance in buying decisions.
- F. Avoid all appearances of unethical or compromising acts during interaction with vendors.
- G. Ensure that any and all vendors have the opportunity to participate in the bidding procedure.
- H. Strive constantly for greater knowledge of purchasing methods and of the goods and services to be procured.
- I. Conduct one-self with fairness and dignity, and demand honesty in buying and selling.
- J. Remember that their conduct reflects on the City.

Conflict of Interest

No officer or employee of the City having any supervisory authority to purchase any specific goods, services or construction for the City shall engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a

Grant Procurement and Administration**2.2.3**

contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

Gratuities

The Purchasing Agent and all other officers and employees of the City are prohibited from accepting directly or indirectly from any person to whom any purchase order or contract is, or might be, awarded, any rebate, kickback, gift, money or other unlawful consideration. The offer of such gratuity to an official or employee by any supplier or contractor shall be cause for declaring such individual to be an irresponsible bidder and for preventing such supplier or contractor from bidding

Pre-Solicitation

1. The Purchasing Agent and all other officers and employees of the City procuring with Federal Funds must avoid acquisition 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 purchase.

CFR Reference: 2CFR 200.318(d)

2. Where advantageous for the City, when competitively bid and awarded and to foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the City is encouraging staff to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services as per Redlands Municipal Code 2.16.210

CFR Reference: 2CFR 200.318(e)

3. The City is 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.

CFR Reference: 2CFR 200.318(g)

Post-Solicitation

1. The City must award contracts 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. See also §200.213 Suspension and debarment.

CFR Reference: 2CFR 200.318(h)

2. The City must maintain records sufficient to detail the history of 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.

Grant Procurement and Administration

2.2.3

CFR Reference: 2CFR 200.318(i)

3. The City 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. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

- (i) The actual cost of materials; and
- (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

In addition, since time-and-material type contract generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, City staff must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls

CFR Reference: 2CFR 200.318(j)

4. The City alone 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. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the City of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of City staff unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

CFR Reference: 2CFR 200.318(k)

COMPETITION

CFR Reference: 2CFR 200.319

1. All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, 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. Some of the situations considered to be restrictive of competition include but are not limited to:

- (a) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (b) Requiring unnecessary experience and excessive bonding;
- (c) Noncompetitive pricing practices between firms or between affiliated companies;
- (d) Noncompetitive contracts to consultants that are on retainer contracts;
- (e) Organizational conflicts of interest;

Grant Procurement and Administration

2.2.3

- (f) 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
- (g) Any arbitrary action in the procurement process.

2. City staff must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal 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 criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

3. City staff must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (a) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must 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, must 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 equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

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

4. City Staff must 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, staff must not preclude potential bidders from qualifying during the solicitation period.

Grant Procurement and Administration

2.2.3

METHODS OF PROCUREMENT TO BE FOLLOWED

CFR Reference: 2CFR 200.320

City staff must use one of the following methods of procurement.

(a) Procurement by **micro-purchases**. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed **\$3,000** (as currently defined in CFR Reference: 2 CFR 200.67 or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold to the extent practicable, City staff must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if City staff considers the price to be reasonable.

(b) 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 of **\$150,000** (as currently defined in CFR Reference: 2 CFR 200.88). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (**formal procurement**). is the acquisition of supplies or services, the aggregate dollar amount of which **exceed \$150,000**. 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 paragraph (c)(1) of this section apply.

- (1) In order for sealed bidding to be feasible, the following conditions should be present:
 - (i) A complete, adequate, and realistic specification or purchase description is available;
 - (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (iii) 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.
- (2) If sealed bids are used, the following requirements apply:

Grant Procurement and Administration

2.2.3

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (iv) 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 must 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
- (v) Any or all bids may be rejected if there is a sound documented reason.

(d) **Procurement by competitive proposals (RFP).** 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:

- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (2) Proposals must be solicited from an adequate number of qualified sources;
- (3) City staff must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (5) City staff 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.

(e) [Reserved by Code of Federal Regulations]

Grant Procurement and Administration

2.2.3

(f) **Procurement by noncompetitive proposals (Sole/Single Source).** Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from City staff; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

CFR Reference: 2CFR 200.321

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

PROCUREMENT OF RECOVERED MATERIALS.

CFR Reference: 2CFR 200.322

Contracts must contain a clause stating contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section

Grant Procurement and Administration

2.2.3

6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

CONTRACT COST AND PRICE

CFR Reference: 2CFR 200.323

(a) City staff must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, City staff must make independent estimates before receiving bids or proposals.

(b) City staff must 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 must 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.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for City staff under Subpart E—Cost Principles of this part. City staff may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

FEDERAL AWARDING AGENCY OR PASS-THROUGH ENTITY REVIEW.

CFR Reference: 2CFR 200.324

(a) City staff must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is

Grant Procurement and Administration

2.2.3

the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if City staff desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) City staff must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- (1) City staff's procurement procedures or operation fails to comply with the procurement standards in this part;
- (2) 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;
- (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
- (4) The proposed contract 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
- (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) City staff is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

- (1) City staff may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
- (2) City staff may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from City staff that it is complying with these standards. City staff must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

Grant Procurement and Administration

2.2.3

BONDING REQUIREMENTS.

CFR Reference: 2CFR 200.325

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (\$150,000 as currently defined in CFR Reference: 2 CFD 200.88), the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of City staff provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must 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 the bid, execute such contractual documents as may be required within the time specified.

(To be submitted with the bidding documents)

(b) 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.

(To be submitted at time of contract award)

(c) 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.

(To be submitted at time of contract award)

CONTRACT PROVISIONS.

CFR Reference: 2CFR 200.326

City staff's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts under Federal Awards.