



Purchasing/Procurement Policy

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BACKGROUND

In order to ensure appropriate stewardship of Cal Poly Humboldt Sponsored Programs Foundation (SPF) resources, a determination **must** be made to show that prices paid for goods or services are fair and reasonable. The level of analysis required will largely depend on the dollar size of the order and should take into consideration not only price, but the quality, delivery, and other factors.

PURPOSE

This policy requires that the *contract* of procurement of goods and services by SPF complies with the Procurement Standards set forth in 2 CFR Part 200 OMB Uniform Guidance §200.318 – 200.327 and/or the applicable funder requirements. Only one of the five methods of procurement, as outlined in the following Definitions section **must** be used for the purchase of goods or services.

Employees, officers, or agents of SPF **must not** participate in the selection, award, or administration of a contract if they have a real or apparent conflict of interest. *Contractors* that assist SPF with developing draft specifications, requirements, statements of work, and invitations to bid **must be** excluded from competing for such procurements.

Any Information Technology (IT) item **must** be approved by Cal Poly Humboldt Information Technology Services prior to purchase.

Please note: that the purchasing of goods and services does not include [subawards](#). (For a definition of [subawards](#), please see pg. 44, Subrecipient Monitoring Policy.)

DEFINITIONS

Contract: a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. Based on the contract cost, one of the following five methods of procurement **must** be used by SPF for the contract of goods and/or services:

1. Procurement by micro-purchases: \$0 - \$25,000

Micro-purchases are the purchase of goods or services that do not exceed \$25,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). Micro-purchases can be made without solicitation of competitive quotes if the price is considered reasonable.

No competitive quotes are required, but an informal solicitation/quote is recommended. A cost is considered reasonable if it does not exceed what a prudent person would pay under the circumstances at the time the cost is incurred. To the extent that is practical, micro-purchases *should* be spread out equitably among qualified vendors.

When cumulative costs for an identical or similar item and/or supplier aggregate to exceed the micro-purchase threshold, then price quotes should be obtained from at least two vendors to comply with procurement by small purchase procedures. If this is not possible, then the noncompetitive procurement method should be followed.



2. Procurement by small purchase procedures: \$25,000.01 - \$250,000.00

Small purchase procedures cover the acquisition of goods, services or other property that are above the micro-purchase threshold and do not exceed \$250,000. Price or rate quotes **must** be obtained from at least two qualified sources. Price or rate quotes may include, but are not limited to: advertisements, emails, internet pricing, letters, phone calls, in person, etc.

3. Procurement by sealed bids: \$250,000.01 and greater

Sealed bids are formally advertised, publicly solicited, firmly fixed amount contracts. The sealed bid method is preferred method for procuring construction if the following characteristics are present:

- A complete adequate and realistic specification is available.
- Two or more responsible bidders are willing and able to compete effectively for the contract.
- The contract lends itself to a firm fixed price contract and the selection of the winning bidder can be made primarily on the basis of price.

If sealed bids are used the following apply:

- The invitation for bids **must** be publicly advertised and **must** be solicited from at least two qualified sources, providing them sufficient time to respond to the date set for opening the bids.
- The invitation for bids will include any pertinent specifications and attachments and **must** define the items or services to allow the bidder to properly respond.
- All bids **must** be opened publicly at the time and place prescribed in the invitation for bids.
- A firm fixed price contract award will be made in writing to the lowest qualified bidder. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs **must** be considered in determining which bid is lowest.
- Any or all bids may be rejected if there is a sound documented reason.

A cost/price analysis **must** be made that includes independent estimates, prior to receiving bids or proposals. Bids are awarded to the lowest bidder that conforms to the material terms and conditions of the solicitation.

4. Procurement by proposals: \$250,000.01 and greater

Competitive proposals are generally used when the conditions for sealed bids are not appropriate. Either a fixed amount or cost reimbursement type of contract is awarded. Independent estimates **must** be made prior to receiving bids or proposals. If this method is used, then the following apply:

- Requests for proposals (RFP) **must** be publicized and identify all factors to be evaluated and their relative importance. Any response to publicized RFP **must** be considered to the maximum extent practical.
- Proposals **must** be solicited from at least two qualified sources.
- SPF **must** have and use a written method for conducting technical evaluations and selection of the proposals received.
- Contracts **must** be awarded to the responsible firm whose proposal is most advantageous for the program, with consideration given to price and other factors.
- A cost/price analysis **must** be made that includes independent estimates, prior to receiving bids or proposals.

5. Procurement by noncompetitive proposals: \$10,000.01 and greater

A noncompetitive proposal, or, sole source contracting, is the solicitation of a proposal from only one source. This method may only be used when one or more of the following apply:

- The item is available from only one source.
- The public exigency or emergency for the requirement will not permit a delay that would result from competitive solicitation.



- The Federal awarding agency, or SPF expressly authorize noncompetitive proposals in response to a written request.
- After solicitation of a number of sources, competition is determined to be insufficient. (Note: Independent estimates **must** be made prior to receiving bids or proposals.)
- If the cost will exceed \$250,000 (the Simple Acquisition Threshold), then a cost/price analysis **must** be made that includes independent estimates, prior to receiving bids or proposals.

ROLES AND RESPONSIBILITIES

SPF **must** only award contracts to vendors that are capable of performing successfully under the terms and conditions of the proposed procurement. Consider such factors as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Principal Investigators and Grant Analysts **must** maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

To the extent that is practical and consistent with law, preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.

PROPERTY COSTS AND CONSIDERATIONS

The total cost of capitalized equipment (items \$5,000 or greater) includes ancillary charges such as taxes, freight, and shipping insurance are included and should be factored in when determining which procurement method to be followed. Warranty costs should not be included.

RECORD KEEPING

SPF **must** maintain records sufficient to detail the history of procurement. These records are to include, but are not limited to:

- The rationale for the method of procurement;
- Selection of contract type;
- Contractor selection or rejection; and
- The basis for the contract price.

Solicitations **must** be written with a clear and accurate description of technical requirements of the item to be procured and **must** not contain features which unduly restrict competition. When necessary, the solicitation **must** establish the minimum essential characteristics and standards to which the material, product or service **must** conform to meet its intended use. A “brand name or equivalent” description may be used only when it is impractical or uneconomical to clearly and accurately describe the technical requirements. The specific features of the named brand which **must** be met, by offers **must** be clearly stated and identify all requirements which **must** be fulfilled and all other factors to be used in evaluating bids or proposals.

COMPETITION

Procurement transactions cannot be split up to avoid competition. For example, if you are equipping a computer lab for 20 stations, you cannot purchase them in smaller increments to avoid seeking a competitive price.

Potential bidders **must** not be precluded from qualification during the solicitation period. Prequalified lists of persons, firms, or products **must** be current and include enough qualified sources to allow maximum competition. In the course of procuring goods and services, all parties with spending authority **must** avoid the purchase of unnecessary or duplicative items. Geographical preferences **must** not be imposed on federally funded procurement actions, except where explicitly mandated or encouraged by federal statute.



SPF and its agents with spending authority **must** take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus firms are used when possible. 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.

Time and material contracts may only be used when it is determined that no other contract is suitable. If used, each contract **must** set a ceiling price that the contractor exceeds at their own risk. A high degree of oversight **must** be asserted in order to obtain reasonable assurance efficient methods and effective cost controls. The *cost plus a percentage of cost* and *percentage of construction costs* methods **must** not be used for federally funded procurements.

RELATED DOCUMENTS

2 CFR Part 200 OMB Uniform Guidance, as amended November 12, 2020

SPF Post-Award and Compliance Desk Procedures related to Purchasing/Procurement Procedures