

LEA PROCUREMENT POLICY/PROCEDURES CHEAT SHEET

Procurement standards apply to the purchase of supplies, equipment, construction (if approved) and other services funded in whole or in part by federal grant funds. Subgrantees/recipients' procurement policies must be in accordance with 34 CFR 80.36 when using federal funds.

LEAs should ensure they have a procurement policy and/or other policies and procedures that address the topics below.

Procurement Standards

- LEAs will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurement conform to applicable Federal law and the standards under EDGAR 80.36.
 - Procurement Procedures must be in written form
- Maintain a contract administration system which ensures contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders
- 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.
- Review all proposed purchases to avoid unnecessary or duplicative items
- Maintain records sufficient to detail the significant history of procurements. These records will include: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- Have protest procedures to handle and resolve disputes relating to their procurements

Competition

- Must not restrict competition
 - Will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations 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.
 - Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

Methods of Procurement to be Followed

- 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.
- 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.

- 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.
- Procurement by noncompetitive proposals
 - Procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. An example would be a single feasible source or an emergency situation.

Items that Contract Provisions Must Contain

- 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)
- 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)
- Compliance with Executive Order 11246 entitled “Equal Employment Opportunity” (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees)
- 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)
- 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)
- Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.