Administrative Procedure PUR-351

COMPETITIVE SOLICITATION REQUIREMENTS FOR PURCHASES USING FEDERAL FUNDS SUBJECT TO 2 CFR 200.030 AND 2 CFR APPENDIX II

Responsible: Purchasing Department

PURPOSE

This Administrative Procedure shall provide the necessary guidance for the Purchasing Department to comply with state and federal laws and regulations related to purchases of products and services utilizing federal monies by Washoe County School District (District). In the purchase of products and services described in this procedure, the District shall comply with the strictest of the applicable law, whether that is local, state, or federal law/regulation.

PROCEDURE

1. The purchase thresholds for the categories listed below are established by the U.S. Office of Management and Budget (see 2 CFR § 200.320) and are periodically adjusted for inflation.

2. *Micro-Purchases* are purchases that are less than $10,000. Micro-purchase refers to the purchase of products or services using simplified procedures. The Purchasing Department is not required to utilize the formal solicitation processes for micro-purchases; however, it shall make an effort to be equitable among vendors.

    a. This process is used in order to expedite the completion of low-dollar small purchase transactions and to minimize the associated administrative burden and cost.

    b. For Micro-Purchases, the District's Purchasing Department applies a more stringent threshold requirement at greater than $5,000 wherever practicable rather than $10,000. The $5,000 threshold is stricter than both the federal regulations and NRS 332.

        i. The assigned Buyer will process a Micro-Purchase through the Purchasing department's Non-Capital Informal Quote Request Procedure where practicable.

3. The *Small Purchase* threshold is $10,000 or more and less than $250,000. Small purchase procedures are methods for securing services, products, or other property in an aggregate amount of $10,000 or more, but less than $250,000.

    a. For *Small Purchases*, the District's Purchasing Department follows the same procedure *Micro-Purchases* over $5000, which is the Non-Capital Informal Quote Request procedure.

b. If *Small Purchase* procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

c. Every effort will be made to obtain at least three (3) quotes (more are acceptable).

d. If the department and/or requestor can demonstrate that multiple (more than three (3)) quotes were requested, but at least three (3) were not obtained, the quote can be processed with 2 upon presentation of documentation to the Purchasing Department.

e. If the department and/or requestor is unable to secure at least two (2) quotes, an exception/exemption for sole source or insufficient competition may be applicable and the Purchasing Department should be contacted for guidance.

f. The Non-Capital Formal Request for Bid ("RFB") process or Formal Request for Proposal ("RFP") process may not be required for *Small Purchases* unless the state law is stricter and the purchase is applicable to state law.

    i. When purchasing products that are subject to state law (Nevada Revised Statute ("NRS") Chapter 332, Purchasing: Local Governments), the District shall follow federal guidelines unless that state law is stricter.

    ii. For any one-time or aggregated annual cost of a purchases is $50,000 or greater, the District will require a formal sealed bid, using the Non-Capital Request for Bid Procedure unless the purchase is exempt from NRS 332.

g. If the purchase is $250,000 or more, sealed bids or competitive proposals must be used (lower thresholds may apply if the purchase is subject to NRS Chapter 332, Purchasing: Local Governments), and the following requirements apply:

    i. The sealed bid process is facilitated through and handled by the District's Purchasing Department. Schools and departments are not permitted to do their own sealed bid process.

    ii. Bids must be solicited in accordance with the District's Purchasing Department's procedure(s), NRS 332, and federal regulations.

4. Exceptions/exemptions to the federal regulations outlined in this procedure are limited to the following:

    a. The item is available only from a single/sole source (complete sole source documentation must be submitted);

    b. The public need or emergency for the requirement will not permit a delay resulting from competitive solicitation;

    c. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity; or

    d. After solicitation of a number of sources, competition is determined inadequate.

GENERAL PROVISIONS OF 2 C.F.R. PART 200, APPENDIX II

1. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph A:

    a. When the District expends federal funds, it reserves all rights and privileges under the applicable laws and regulations with respect to the purchase in the event of breach of contract by either party.

2. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph B:

    a. When the District expends federal funds on any agreement in excess of $10,000, the District must have a clause on said agreement allowing it to immediately terminate the agreement resulting from a procurement in the event of a breach, default, or for cause of the agreement by the vendor if the vendor fails to:

        i. Meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order;

        ii. Make any payments owed; or

        iii. Otherwise perform in accordance with the contract and/or the procurement solicitation.

    b. When the District expends federal funds on any agreement in excess of $10,000, the District must have a clause on said agreement allowing it to immediately terminate the agreement resulting from a procurement, for

convenience, if it believes, in its sole discretion that it is in the best interest of the District to do so.

i. Vendor will be compensated for work performed and accepted and goods accepted by the District as of the termination date if the contract is terminated for convenience by the District.

c. Any award under this procedure is not exclusive and the District reserves the right to purchase products and services from other vendors when it is in the District's best interest.

3. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph C:

   a. When the District expends federal funds on any federally assisted construction contract, the Equal Employment Opportunity clause is incorporated by reference.

   b. The District will not discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs.

   c. Vendors agrees to not discriminate against any employee or applicant for employment to be employed in the performance of the contract with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry.

   d. Vendor further agrees that every subcontract entered into for the performance of a contract shall contain a provision requiring non-discrimination in employment, binding upon any and all subcontractors, when applicable. Breach of this covenant may be regarded as a material breach of the contract.

4. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph D:

   a. When federal funds are expended by the District, during the term of an award for all contracts and subgrants for construction or repair, the vendor will be in compliance with all applicable Davis-Bacon Act provisions.

5. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph E:

    a. When the District expends federal funds, the vendor certifies that the vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by the District resulting from this procedure and applied solicitation processes.

6. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph F:

    a. When federal funds are expended by the District, the vendor certifies that during the term of an award for all contracts by the District resulting from this procedure and applied solicitation processes, the vendor agrees to comply with all applicable requirements as referenced in 2 C.F.R. Part 200, Appendix II, Paragraph F (Rights to Inventions Made Under a Contract or Agreement).

7. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph G:

    a. When federal funds are expended by the District, the vendor certifies that during the term of an award for all contracts by the District resulting from this procedure and applied solicitation processes, the vendor agrees to comply with all applicable requirements as referenced in 2 C.F.R. Part 200, Appendix II, Paragraph G (Clean Air Act and Federal Water Pollution Control Act.).

8. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph H:

    a. When federal funds are expended by the District, the vendor certifies that during the term of an award for all contracts by the vendor resulting from this this procedure and applied solicitation processes, the vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

9. Pursuant to 2 C.F.R. Part 200, Appendix II, Paragraph I:

    a. When federal funds are expended by the District, the vendor certifies that during the term and after the awarded term of an award for all contracts by the District resulting from this procedure and applied solicitation processes, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

i. No federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of a federal grant, the making of a federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement;

ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions; and

iii. The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding $250,000 in federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

10. Pursuant to 2 C.F.R. Part 200 Appendix II, Paragraph J:

a. When federal funds are expended by the District, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the vendor certifies that during the term of an award for all contracts by the vendor resulting from this this procedure and applied solicitation processes that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

ADDITIONAL PROVISIONS REQUIRED OR RECOMMENDED BY FEMA AS AUTHORIZED BY THE UNIFORM RULES

11. Record Retention Requirements for Contracts Involving Federal Funds

a. When federal funds are expended by the District for any contract resulting from this procedure and applied solicitation processes, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333.

b. The vendor further certifies that it will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

12. Compliance with the Energy Policy and Conservation Act

    a. When the District expends federal funds for any contract resulting from this procedure and applied solicitation processes, the vendor certifies that it will comply with the mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

13. Compliance with Buy America Provisions

    a. The District has a preference for domestic end products for products/supplies acquired for use in the United States when spending federal funds (purchases that are made with non-federal funds or grants are excluded from the Buy America Act). Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act.

LEGAL REQUIRMENTS AND ASSOCIATED DOCUMENTS

1. This Administrative Procedure reflects the goals of the District's Strategic Plan and aligns/complies with the governing documents of the District, to include:

    a. Board Policy 3321, Contract Review and Approval;

    b. Administrative Regulation 3322, Bids/Quotations and Contracts; and

    c. Administrative Regulation 3329, Purchasing Protocols – Federal Funds.

2. This Administrative Procedure aligns with Nevada Revised Statutes (NRS), to include:

    a. Chapter 332, Purchasing Local Governments.

REVISION HISTORY

Date	Revision	Modification
01/01/2022	1.0	Adopted