

**CITY OF LINCOLN & LANCASTER COUNTY  
FEDERAL PROCUREMENT MANUAL**

**Effective February 1, 2015**

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## **Summary:**

It is the purpose of this document to provide procurement guidance to City of Lincoln and Lancaster County staff working with Federal Grant funds according to the standards listed in the final guidance issued in the Federal Register on December 26, 2013. The basis for the information in this manual comes from the documents listed below and the CFR's directly related to the grant provided by the Federal Government or the Grantee. The City of Lincoln and Lancaster County, Nebraska will utilize the information from this manual in order to insure that procurements are being handled appropriately, the process is transparent, and all areas of Procurement accountability are addressed.

This document does not address all aspects of 2 CFR 200. Departments and divisions will be responsible for obtaining the information required for the Accounting portion of the grant money and any other stated requirements for Procurement.

The basis for this document is gleaned from the following;

1. 2 CFR 200 (<http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1>)
2. COFAR website: <http://cfo.gov/cofar>
3. OMB Circular A-102 paragraph b.5 "Procurement Standards"
4. City of Lincoln Municipal Code Chapter 2.18 "Purchasing Division"
5. City of Lincoln Municipal Code Chapter 2.54 governing conflict of interest of officers and employees
6. City of Lincoln Municipal Code Chapter 2.76.445 governing solicitation or receipt of gifts
7. City of Lincoln, "Executive Order #83442" dated September 15<sup>th</sup>, 2010
8. Lancaster County Purchasing Manual
9. Lancaster County Conflict of Interest Statement
10. County Purchasing Act

The guidelines outlined in this document shall supersede any other Federal grant procurement guidance implemented by the City or County prior to the effective date of this manual (February 1, 2015).

The thresholds and other information in this document reflect both the Federal requirements and the City of Lincoln and Lancaster County requirements. In particular the dollar thresholds for the City and County are related to City code and the County Purchasing Act.

Though the Federal Grant Procurement Requirements as listed in 2 CFR 200 are not in effect for grants issued prior to December 26, 2014, these guidelines will be followed for all Federally funded grant purchases effective February 1, 2015.

This document is subject to revisions as required by the City of Lincoln, Lancaster County and the Federal Government.

There are six types of procurements which will be used by City and County staff when using Federal Grant money. They are as follows:

**Micro-Purchase Process**

1. **The following Micro-Purchase process will be followed any time Federal Grant funds are used by City of Lincoln and Lancaster County Departments for one-time purchases of commodities or services that do not exceed \$3,000.00 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act):**
2. The department must establish the need for the purchase, establish specifications and identify sources.
3. The department shall have a full understanding of what their specific CFR requirements are before proceeding with a Micro-Purchase.
4. All micropurchases by City of Lincoln departments using Federal Grant Funds must follow City of Lincoln Executive Order 083442.
5. All Micro-Purchases will be conducted under the following guidelines:
  - a. The entity must, to the extent practicable, distribute these purchases equitably among qualified suppliers.
  - b. Micro-purchases may be awarded without soliciting competitive quotations if the authorized City/County Staff person considers the price to be reasonable.
  - c. No rate competitive quotations are necessary for the purchase.
  - d. No cost or price analysis is required.
  - e. The entity must make the purchase from any one of a number of suppliers.
  - f. Following receipt of the product, the department shall stamp the invoice with an approved Micro-Purchase stamp (See below) and attach the invoice copy which is kept in a designated file at the department.
  - g. The department shall keep all Micro-Purchases in a file for easy accessibility and auditing.
  - h. The Purchasing Dept. shall audit various departments using Federal Grant money on a random basis to ensure that this process is being followed and to discuss possible Annual Supply contract needs.
  - i. Departments who are using Federal Grant Funds must contact Bob Walla in the Purchasing Department to order a Micro-Purchase stamp and provide information on the Federal Grants they are utilizing.
6. The Micropurchase stamp will read as follows; **Federal Grant Micro-Purchase**
7. Department shall utilize and award to "Small and Minority Firms, Women's Business Enterprise" when reasonable and possible.
8. Departments shall review the System for Award Management (SAM.gov) site to ensure that the vendor is not an excluded Vendor.
  - a. Place documentation in the file that the approved vendor is not in the SAM.gov excluded category.

**\* At no time will the policy listed herein supersede the Federal Grant Procurement Requirements set by the Grantor. It is up to the Department to read and understand the requirements of their grant and to work with the Purchasing Department to ensure compliance for all purchases.**

### **Small Purchase Process**

1. **The following Small Purchase process will be followed any time Federal Grant funds are used by City of Lincoln and Lancaster County Departments to purchase commodities or services that exceed \$3,000.00 BUT under \$20,000.00 (County) - \$25,000.00 (City)**
2. The department must establish the need for the purchase, establish specifications and identify sources.
3. The department shall have a full understanding of what their specific CFR requirements are before proceeding with a Small Purchase.
4. All Small Purchases by City of Lincoln departments using Federal Grant Funds must follow City of Lincoln Executive Order 083442.
5. All Small Purchases will be conducted under the following guidelines:
  - a. Contact City of Lincoln Purchasing Department to procure needed Supply, Service or Equipment. The Purchasing Department will issue these quotes using the City/County Purchasing Ebid site.
  - b. Complete Independent Cost Estimate (ICE) and supporting documentation for Supplies, Service or Equipment.
    - bb. ICE shall be completed by getting online pricing for similar or same products in the same quantities.
  - c. Forward the ICE, specifications and any supporting documentation to Purchasing for processing as an Informal Quote.
  - d. Purchasing will issue quote for predetermined time which will correspond with the difficulty of the service and/or availability of Vendors.
    - cc. Quote will include all Federal Clauses as required.
  - e. Purchasing will send bid results to Department who will then review Quotes for lowest price or best value and complete the Cost Price Analysis (CPA) form.
    - ee. Department will tell the complete story of the bid results in the CPA and other documentation which results in an award recommendation being made.
  - f. Award recommendation and CPA will be emailed to Purchasing for award processing and Contract or PO execution.
  - g. Purchasing will review the System for Award Management, SAM.gov to ensure that the vendor is not on the excluded list.
    - gg. A copy of the SAM report will be placed in the Purchasing file.
  - h. Department will develop a documentation folder for all Small Purchase procurements for use by the Contract Administrator to meet performance reporting requirements and audit needs.
    - hh. The Contract Administrator is a designated person in the department who is responsible for ensuring that all contract requirements are met including but not limited to, timely delivery, correct quantities, products meeting specifications and charges being consistent with the Contract or PO.
    - hhh. Contracts resulting from Small Purchases will be entered into the Contract Management System.
  - i. Following the receipt of the supply or completion of the service, the department will notify Purchasing of the completion date and provide feedback on the Vendor's performance.

**\* At no time will the policy listed herein supersede the Federal Grant Procurement Requirements set by the Grantor. It is up to the Department to read and understand the requirements of their grant and to work with the Purchasing Department to ensure compliance for all purchases.**

**\* All construction projects with a cost over \$2,000.00 must follow procedures and include proper information for applying Davis Bacon wage rates.**

**\*\* Construction contracts will require the designation of a Contract Administrator and a Construction Administrator.**

**\* For a specific procurement, you must exclude from bidding or proposal submission any Contractors who have been involved in development of the procurement. For example, you must not accept bids or proposals from Contractors who have developed or drafted specifications, requirements, statements of work, and/or requests for proposals for the procurement.**

### **Sealed Bid Purchase Process**

1. **The following Sealed Bid Purchase process will be followed any time Federal Grant funds are used by City of Lincoln and Lancaster County Departments to purchase commodities or services that exceed \$20,000.00 (County) or \$25,000.00 (City)**
2. The department must establish the need for the purchase, establish specifications and identify sources.
3. The department shall have a full understanding of what the CFR requirements are before proceeding with a Sealed Bid Purchase.
4. All Sealed Bid Purchases by City of Lincoln departments using Federal Grant Funds must follow City of Lincoln Executive Order 083442.
5. All Sealed Bid Purchases will be conducted under the following guidelines:
  - a. Contact City of Lincoln Purchasing Department to procure needed Supplies, Service or Equipment. The Purchasing Department will issue these bids using the City/County Purchasing Ebid site.
  - b. Complete Independent Cost Estimate (ICE) and supporting documentation for Supplies, Service or Equipment.
    - bb. ICE shall be completed by getting online pricing for similar or same products in the same quantities.
  - c. Forward the ICE, specifications and any supporting documentation to Purchasing for processing as a Formal Bid.
  - d. Purchasing will issue Formal Bid for a minimum of ten (10) business days using the City/County Ebid system which will notify registered Vendors via email and be available worldwide on the web.
    - dd. Quote will include all Federal Clauses as required.
  - e. Purchasing will send notice to the Lincoln Journal Star for advertisement at least one time upon bid release for City bids and at least two times upon release for County bids.
  - f. All bids will be publicly opened at the time and place prescribed in the invitation.
  - g. A Firm Fixed Price or Annual Supply/Requirement award will be made to the lowest, responsive and responsible Bidder.
  - h. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest.
  - i. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
  - j. Purchasing will send bid results to Department who will then review bids for lowest price or best value and complete the Cost Price Analysis (CPA) form.
    - jj. Department will tell the complete story of the bid results in the CPA and other documentation which results in an award recommendation being made.
    - jjj. A firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.
    - jjjj. Any or all bids may be rejected if there is a sound documented reason.
  - k. Award recommendation and CPA will be emailed to Purchasing for award processing and Contract or PO execution.
  - l. Purchasing will review the System for Award Management, SAM.gov to ensure that the Vendor is not excluded from procurement using Federal funding.
    - ll. A copy of the SAM report will be placed in the Purchasing file.
  - m. Department will develop a documentation folder for all Sealed Bid procurements for use by the Contract Administrator to meet performance reporting requirements and audit needs.
    - mm. Contracts issued will be entered into the Contract Management System.
  - n. Following the receipt of the supply or completion of the service, the department will notify Purchasing of the completion date and provide feedback on the Vendor's performance.

**\* At no time will the policy listed herein supersede the Federal Grant Procurement Requirements set by the Grantor. It is up to the Department to read and understand the requirements of their grant and to work with the Purchasing Department to ensure compliance for all purchases.**

**\* All construction projects with a cost over \$2,000.00 must follow procedures and include proper information for applying Davis Bacon wage rates.**

**\*\* Construction contracts will require the designation of a Contract Administrator and a Construction Administrator.**

**\* For a specific procurement, you must exclude from bidding or proposal submission any contractors who have been involved in development of the procurement. For example, you must not accept bids or proposals from contractors who have developed or drafted specifications, requirements, statements of work, and/or requests for proposals for the procurement.**

### **Competitive Proposal Purchase Process – Non-A/E Services**

1. **The Competitive Proposal process will be followed any time Federal Grant funds are used by City of Lincoln and Lancaster County Departments to purchase commodities or services using a process which is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded, and is generally used when conditions are not appropriate for the use of sealed bids.**
  - 1.1. **This process is not applicable to A/E selection using a Qualifications-Based Selection process. (See Competitive Purchase Process – A/E Services)**
2. Establish need for purchase, establish specifications and identify sources.
3. The department shall have a full understanding of what their specific CFR requirements are before proceeding with a Competitive Proposal.
4. All Competitive Proposals by City of Lincoln departments using Federal Grant Funds must follow City of Lincoln Executive Order 83442.
5. All Competitive Proposals will be conducted under the following guidelines:
  - a. Contact City of Lincoln Purchasing Department to procure needed Supplies, Service or Equipment. The Purchasing Department will issue these RFP's using the City/County Purchasing Ebid site.
  - b. Complete Independent Cost Estimate (ICE), RFP Intake Form and supporting documentation for Supplies, Service or Equipment.
    - bb. ICE shall be completed by getting online or other pricing for similar or same products or services.
  - c. Forward the ICE, RFP Intake Form, Specifications and any supporting documentation to Purchasing for processing as a Competitive Proposal.
    - cc. Requests for Proposals must be publicized and identify all evaluation factors and their relative importance.
    - ccc. Department must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
    - cccc. The Purchasing Department will assist in the scoring process and Selection Committee assignments.
  - d. Purchasing will issue Proposal for a minimum of ten (10) business days using the City/County Ebid system which will notify registered Vendors via email and be available worldwide on the web.
    - dd. RFP will include all Federal Clauses as required.
  - e. Purchasing will send notice to the Lincoln Journal Star for advertisement at least one time upon bid release for City RFP's and at least two times upon release for County RFP's.
  - f. All proposals will be publicly opened via the ebid system at the time and place prescribed in the invitation.
  - g. Any response to publicized Requests for Proposals must be considered to the maximum extent practical.
  - h. Contracts must be awarded to the responsive and responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
  - i. Purchasing will send proposals to the Selection Committee who will then review them, score them and determine if interviews are necessary for an award.
  - j. Following the scoring and/or evaluation procedures outlined in the specifications, the department may negotiate for the lowest possible cost based upon the agreed upon scope of services and then complete the Cost Price Analysis (CPA) form.
  - k. Department will tell the complete story of the proposal response and award in the CPA and other documentation which results in an award recommendation being made.
    - kk. Any or all proposals may be rejected if there is a sound documented reason.
  - l. Award recommendation and CPA will be emailed to Purchasing for award processing and Contract execution.
  - m. Purchasing will review the System for Award Management, SAM.gov to ensure that the vendor is not excluded for procurement using Federal funding.
    - mm. A copy of the SAM report will be placed in the Purchasing file.
  - n. Department will develop a documentation folder for all Competitive Proposals for use by the Contract Administrator to meet performance reporting requirements and audit needs.
    - nn. The contract information will be loaded into the Contract Management System.
  - o. Following the receipt of the completion of the service, the department will notify Purchasing of the completion date and provide feedback on the Vendor's performance.

**\* At no time will the policy listed herein supersede the Federal Grant Procurement Requirements set by the Grantor. It is up to the Department to read and understand the requirements of their grant and to work with the Purchasing Department to ensure compliance for all purchases.**

**\* For a specific procurement, you must exclude from bidding or proposal submission any contractors who have been involved in development of the procurement. For example, you must not accept bids or proposals from contractors who have developed or drafted specifications, requirements, statements of work, and/or requests for proposals for the procurement**

### **Competitive Proposal Purchase Process – A/E Services**

1. **The Competitive Proposal process will be followed any time Federal Grant funds are used by City of Lincoln and Lancaster County Departments to obtain Architect/Engineering (A/E) services.**
  - 1.1 **The process will use procedures for qualifications-based procurement of A/E professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.**
  - 1.2 **This process is applicable only for A/E proposals.**
  - 1.3 **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.**
2. Establish need for procurement of A/E professional services, establish specifications and identify sources.
3. The department shall have a full understanding of what their specific CFR requirements are before proceeding with a Competitive Proposal.
4. All Competitive Proposals by City of Lincoln departments using Federal Grant Funds must follow City of Lincoln Executive Order 83442 as long as they do not conflict with these Federal requirements or those listed in the CFR.
5. All Competitive Proposals will be conducted under the following guidelines:
  - a. Contact City/County Purchasing Department to procure needed A/E Services using the City/County Purchasing Ebid site.
  - b. Complete Independent Cost Estimate (ICE), RFP Intake Form and supporting documentation for service.
    - bb. ICE shall be completed by requesting an estimate or using historical data for similar or same services.
  - c. Forward the ICE, RFP Intake Form, Specifications and any supporting documentation to Purchasing for processing as a Competitive Proposal.
    - cc. Requests for proposals must be publicized and identify all evaluation factors and their relative importance.
    - ccc. Department must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
    - cccc. The Purchasing Department will assist in the scoring process and Selection Committee assignments.
  - d. Purchasing will issue Proposal for a minimum of ten (10) business days using the City/County Ebid system which will notify registered Vendors via email and be available worldwide on the web.
    - dd. RFP will include all required Federal Clauses as required
  - e. Purchasing will send notice to the Lincoln Journal Star for advertisement at least one time upon bid release for City RFP's and at least two times upon release for County RFP's.
  - f. All proposals will be publicly opened via the ebid system at the time and place prescribed in the invitation.
  - g. Any response to publicized Requests for Proposals must be considered to the maximum extent practical.
  - h. Contracts must be awarded to the responsible firm whose Proposal is most advantageous to the program, with price and other factors considered.
  - i. Purchasing will send Proposals to the Selection Committee who will then review them, score them and determine if interviews are necessary for an award.
  - j. Following the scoring and/or evaluation procedures outlined in the specifications, the Negotiation Committee may negotiate for the lowest possible cost based upon the agreed upon scope of services and then complete the Cost Price Analysis (CPA) form. All fees must be in compliance with the guidance provided in 2 CFR 200 or the CFR for that particular purchase.
    - jj. Department will tell the complete story of the proposal response and award in the CPA and other documentation which results in an award recommendation being made.
    - jjj. Any or all proposals may be rejected if there is a sound documented reason.
  - k. Award recommendation and CPA will be emailed to Purchasing for award processing and Contract execution.
  - l. Purchasing will review the System for Award Management, SAM.gov to ensure that the vendor is not excluded for procurement using Federal funding.
    - ll. A copy of the SAM report will be placed in the Purchasing file.
  - m. Department will develop a documentation folder for all Competitive Proposals for use by the Contract Administrator to meet performance reporting requirements and audit needs.
    - mm. Contract information will be entered into the Contract Management System.
  - n. Following the completion of the service, the department will notify Purchasing of the completion date and provide feedback on the Vendor's performance.

**\* At no time will the policy listed herein supersede the Federal Grant Procurement Requirements set by the Grantor. It is up to the Department to read and understand the requirements of their grant and to work with the Purchasing Department to ensure compliance for all purchases.**

**\* For a specific procurement, you must exclude from bidding or proposal submission any contractors who have been involved in development of the procurement. For example, you must not accept bids or proposals from contractors who have developed or drafted specifications, requirements, statements of work, and/or requests for proposals for the procurement.**



### **Noncompetitive Proposal Process (Sole Source)**

1. **The Noncompetitive Proposal process will be followed any time Federal Grant funds are used by City of Lincoln and Lancaster County Departments to purchase commodities or services through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:**
  - a. The item exclusive to a single source and is available only from a single source.
  - b. The public exigency 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.
  - d. After solicitation of a number of sources, competition is determined inadequate.
2. Departments shall establish need for purchase, specifications and identify sources.
3. The department shall have a full understanding of what their specific CFR requirements are before proceeding with the Noncompetitive Proposal.
4. All Noncompetitive Proposals by City of Lincoln departments using Federal Grant Funds must follow City of Lincoln Executive Order 83442.
5. All Noncompetitive Proposals will be conducted under the following guidelines:
  - a. Department must notify the City/County Purchasing department to discuss the use of this option and ensure that this is the proper way to proceed **prior** to completion and submission of any forms or documents.
  - b. A City of Lincoln or Lancaster County Sole Source form must be completed once the determination is made that a Noncompetitive Proposal is the method of procurement.
    - bb. All sections of the document must have a response listed and clearly define why this is a sole source.
  - c. Complete Independent Cost Estimate (ICE) and supporting documentation for product or service.
    - cc. ICE shall be completed by requesting an estimate or using historical data for similar or same product or services.
 

**Note: The ICE should be completed from an independent source prior to getting a proposal from the selected Vendor if possible.**
  - d. The non-Federal entity 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.
  - e. Award recommendation and CPA will be emailed to Purchasing for award processing and Contract execution.
  - f. Purchasing will review the System for Award Management, SAM.gov to ensure that the vendor is not excluded for procurement using Federal funding.
    - ff. A copy of the SAM report will be placed in the Purchasing file.
  - g. Department will develop a documentation folder for all Competitive Proposals for use by the Contract Administrator to meet performance reporting requirements and audit needs.
  - h. Following the completion of the order, the department will notify Purchasing of the completion date and provide feedback on the Vendor's performance.

**\* At no time will the policy listed herein supersede the Federal Grant Procurement Requirements set by the Grantor. It is up to the Department to read and understand the requirements of their grant and to work with the Purchasing Department to ensure compliance for all purchases.**

**\* Do not test equipment for a period of time and then determine that a sole source designation is required due to your testing. Testing equipment may be done following a competitive procurement process. This allows for fair and open competition.**

**\* For a specific procurement, you must exclude from bidding or proposal submission any contractors who have been involved in development of the procurement. For example, you must not accept bids or proposals from contractors who have developed or drafted specifications, requirements, statements of work, and/or requests for proposals for the procurement.**

**\* 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 the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.**

## **GENERAL FEDERAL GRANT PROCUREMENT INFORMATION**

**The following general information is being provided to all City and County Departments who are utilizing Federal Grant money to purchase commodities or services as a Grantee or Subgrantee effective February 1, 2015:**

- 1) Read and understand all of the requirements of the grant that is being used including the CFR which provides guidance on the procurement process.
- 2) Determine whether your department and/or entity is a Grantee, Sub Grantee, Recipient or Sub Recipient according to Federal Guidelines (200.330).
- 3) Ensure accounting, purchasing and grant program personnel are provided adequate training and resources regarding administrative requirements.
- 4) All departments must inform their employees of the written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection of awards and administration of contracts.
- 5) Determine the need for the product or service, and where appropriate, analysis should be done to determine the most economical approach (lease vs. purchase, for example).
- 6) Determine if a cooperative bid is feasible with another government entity to increase the amount of product or services being ordered to obtain the best pricing for common or shared goods and services.
- 7) Piggyback purchases are only allowed if the Lead Public Agency allows options on their contract, the options are available at the time of request, and all Federal requirements have been met during the procurement process. Contact Purchasing for additional information about piggybacking opportunities.
- 8) Determine if Federal excess and surplus property is available in lieu of purchasing new equipment.
- 9) Conduct an Independent Cost Estimate to determine what the purpose of the procurement is and the estimated cost of the project.
- 10) Follow the guidelines listed in the previous sections of this document for the type of procurement to be initiated.
- 11) Submit Intake Form, Independent Cost Estimate (ICE) and technical specifications to the Purchasing Department for all purchases over \$3,000.00.
- 12) Refer to Procurement of Recovered Materials information listed below for all purchases over \$10,000.00.
- 13) Purchasing will complete the specifications with front-end terms and conditions and either issue a quote on the ebid system or notify the Journal Star for advertisement and subsequent posting of the bid or RFP on the ebid system.
- 14) Construction projects require performance and payment bonds over \$5,000.00 or less in some cases.
- 15) All procurement transactions must be conducted in a manner providing full and open competition.
- 16) Purchasing will issue the bid with all appropriate documentation as required in section 200.326 or the CFR for the grant being utilized.
- 17) Bids and Quotes will close automatically by the ebid system and results posted immediately on the ebid system.
- 18) Purchasing will send notice to the departments on the closing of the bid and instructions on how to review the bid documents.
- 19) Notice and documentation for RFP's will be sent to the Selection Committee.
- 20) The department will issue an award recommendation to Purchasing via email for the lowest, responsible, responsive Bidder for ITB's.
- 21) The Selection Committee and Negotiation Committee will issue an award recommendation to Purchasing via email for the selected company for RFP's.

- 22) In addition to the email award notification the Department must provide a Cost/Price Analysis for all procurements exceeding the Small Purchase Threshold (\$3,000.00) (See section below for Cost/Price Analysis information)
- 23) Awards and contracts must be awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the procurement.
- 24) Purchasing will issue a Purchase Order or Contract as specified in the bid documents, have it executed by the Vendor, and complete execution by the appropriate entities.
  - a. Following execution the documents will be filed with the appropriate clerk office and an email copy sent to the Vendor and the requesting department.
  - b. Purchase Orders will be issued from requisitions issued by the department.
- 25) Contracts with specific completion dates will be posted and monitored in the City/County Contract Management System by the Purchasing Department.
- 26) Departments and Purchasing must maintain records sufficient to detail the history of procurement, including but not limited to, rationale for method of procurement, selection of contract type, contractor selection or rejection, and basis for the contract price.
- 27) Time and material type contracts can only be used 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.
- 28) All departments must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts.
- 29) All contracts awarded using Federal funds must be officially closed out by contacting the Purchasing Department.
- 30) The Contract Administrator is a designated person in the department who is responsible for ensuring that all contract requirements are met including but not limited to, timely delivery, correct quantities, products meeting specifications and charges being consistent with the Contract or PO.
- 31) A Construction project must have a Contract Administrator in the department initiating the request and a Construction Administrator. A Construction Administrator can be the same person as the Contract Administrator or another person who is charged with managing the construction project and notifying the Contract Administrator of changes in scope, delays, or other contract issues which result in a contract change order or contract amendment.
- 32) The procurement processes listed in this document are designed to allow for open competition. Do not test products from one or more Vendors prior to issuing a bid or RFP for that type of product.
- 33) The use of Brand Names in procurements is prohibited unless followed by the words, "Or Equivalent". If Brand Name Or Equivalent is used in a procurement, it shall be followed by the salient characteristics of the product listed.

## **OTHER FEDERAL GRANT PROCUREMENT INSTRUCTIONS**

### **Use of GSA Contracts**

Certain non-Federal entities are allowed to utilize GSA contracts for certain types of purchases. In the event a department is eligible to utilize these contracts, the Purchasing Division and Department will review the GSA Schedule for purchases of services, equipment, and supplies to determine if the GSA schedule may be of lower cost or better value than if an alternate procurement function was utilized.

### **200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.**

- (a) The non-Federal entity must take all necessary affirmative steps to assure that minority business, 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.

### **200.322 Procurement of recovered materials. (Includes requirements as shown in 40 CFR Part 247)**

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its 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 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 by 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.

#### **247.1 Purpose and scope.**

(a) The purpose of this guideline is to assist procuring agencies in complying with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, [42 U.S.C. 6962](#), and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of this part.

(b) This guideline designates items that are or can be made with recovered materials and whose procurement by procuring agencies will carry out the objectives of section 6002 of RCRA. EPA's recommended practices with respect to the procurement of specific designated items are found in the companion Recovered Materials Advisory Notice(s).

(c) EPA believes that adherence to the recommendations in the Recovered Materials Advisory Notice(s) constitutes compliance with RCRA section 6002. However, procuring agencies may adopt other types of procurement programs consistent with RCRA section 6002.

**247.2 Applicability.**

(1) This guideline applies to all procuring agencies and to all procurement actions involving items designated by EPA in this part, where the procuring agency purchases \$10,000 or more worth of one of these items during the course of a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was \$10,000 or more.

(2) This guideline applies to Federal agencies, to State and local agencies using appropriated Federal funds to procure designated items, and to persons contracting with any such agencies with respect to work performed under such contracts. Federal procuring agencies should note that the requirements of RCRA section 6002 apply to them whether or not appropriated Federal funds are used for procurement of designated items.

(3) The \$10,000 threshold applies to procuring agencies as a whole rather than to agency subgroups such as regional offices or subagencies of a larger department or agency.

(4) The term *procurement actions* includes:

(5) Purchases made directly by a procuring agency and purchases made directly by any person (e.g., a contractor) in support of work being performed for a procuring agency, and

(6) Any purchases of designated items made “indirectly” by a procuring agency, as in the case of procurements resulting from grants, loans, funds, and similar forms of disbursements of monies.

(7) This guideline does not apply to purchases of designated items which are unrelated to or incidental to Federal funding, i.e., not the direct result of a contract or agreement with, or a grant, loan, or funds disbursement to, a procuring agency.

(8) This guideline also does not apply to purchases made by private party recipients (e.g., individuals, non-profit organizations) of Federal funds pursuant to grants, loans, cooperative agreements, and other funds disbursements.

(9) RCRA section 6002(c)(1) requires procuring agencies to procure designated items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines.

Procuring agencies may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

**247.3 Definitions – Refer to 40 CFR 247.3 for this information****247.4 Contracting officer requirements.**

Within one year after the effective date of each item designation, contracting officers shall require that vendors:

(a) Certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements, and

(b) Estimate the percentage of total material utilized for the performance of the contract which is recovered materials.

**§ 247.5 Specifications.**

(a) RCRA section 6002(d)(1) required Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies to revise their specifications by May 8, 1986, to eliminate any exclusion of recovered materials and any requirement that items be manufactured from virgin materials.

(b) RCRA section 6002(d)(2) requires that within one year after the publication date of each item designation by the EPA, each procuring agency must assure that its specifications for these items require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of these items.

**247.6 Affirmative procurement programs.**

RCRA section 6002(i) provides that each procuring agency which purchases items designated by EPA must establish an affirmative procurement program, containing the four elements listed below, for procuring such items containing recovered materials to the maximum extent practicable:

(a) Preference program for purchasing the designated items;

(b) Promotion program;

(c) Procedures for obtaining estimates and certifications of recovered materials content and for verifying the estimates and certifications; and

(d) Annual review and monitoring of the effectiveness of the program.

**247.7 Effective date.**

Within one year after the date of publication of any item designation, procuring agencies which purchase that designated item must comply with the following requirements of RCRA: affirmative procurement of the designated item (6002(c)(1) and (i)), specifications revision (6002(d)(2)), vendor certification and estimation of recovered materials content of the item (6002(c)(3) and (i)(2)(C)), and verification of vendor estimates and certifications (6002(i)(2)(C)).

**Refer to the following Item Designations (40 CFR 247) for a complete list of products/services which fall under these guidelines:**

- § 247.10 — Paper and paper products.
- § 247.11 — Vehicular products.
- § 247.12 — Construction products.
- § 247.13 — Transportation products.
- § 247.14 — Park and recreation products.
- § 247.15 — Landscaping products.
- § 247.16 — Non-paper office products.
- § 247.17 — Miscellaneous products.

**200.323 Contract cost and price Information**

- (a) The non-Federal entity 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, the non-Federal entity must make independent estimates before receiving bids or proposals.
- (b) The non-Federal entity 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 the non-Federal entity under Subpart E— Cost Principles of this part. The non-Federal entity 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.

**Reasonable costs**

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state and other laws and regulations; and terms and conditions of the Federal award.
- (c) Market prices for comparable goods or services for the geographic area.
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal government.
- (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

**200.324 Federal awarding agency or pass-through entity review**

- (a) The non-Federal entity 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 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 the non-Federal entity 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) The non-Federal entity 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) The non-Federal entity'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) The non-Federal entity 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.

**200.326 Contract provisions.**

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

**200.318 General Procurement Standards**

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a 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. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

**200.328 Monitoring and reporting program performance.**

- (a) *Monitoring by the non-Federal entity.* The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through *entities*.
- (b) *Non-construction performance reports.* The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).
- (1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.
- (2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:
- (i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.
- (ii) The reasons why established goals were not met, if appropriate.
- (iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
- (c) *Construction performance reports.* For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.
- (d) *Significant developments.* Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:
- (1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
- (2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.
- (e) The Federal awarding agency may make site visits as warranted by program needs.
- (f) The Federal awarding agency may waive any performance report required by this part if not needed.



**200.329 Reporting on real property.**

The Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports at least annually on the status of real property in which the Federal government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

**200.330 Subrecipient and Contractor determinations.**

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

- (a) *Subrecipients.* A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:
- (1) Determines who is eligible to receive what Federal assistance;
  - (2) Has its performance measured in relation to whether objectives of a Federal program were met;
  - (3) Has responsibility for programmatic decision making;
  - (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
  - (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.
- (b) *Contractors.* A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:
- (1) Provides the goods and services within normal business operations;
  - (2) Provides similar goods or services to many different purchasers;
  - (3) Normally operates in a competitive environment;
  - (4) Provides goods or services that are ancillary to the operation of the Federal program; and
  - (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.
- (c) *Use of judgment in making determination.* In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

## **LANCASTER COUNTY CONFLICT OF INTEREST STATEMENT**

### **ARTICLE I. PURPOSE**

The purpose of this conflict of interest statement is to protect Lancaster County's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of one of its elected officials, appointed official, officers, directors, or employees, or might result in a possible excess benefit transaction. This statement is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest, to include the Nebraska Political Accountability and Disclosure Act.

### **ARTICLE II. DEFINITIONS**

1. Interested Person – an Interested Person is any elected official, appointed official, officer, director, employee, or member of a committee with decision making authority who has a direct or indirect Financial Interest, as defined below.
2. Financial Interest – a person has a Financial Interest if the individual has, directly or indirectly, any actual or potential ownership, investment, or compensation arrangement with a potential contractor or vendor of the County, or with any entity that conducts transactions with a potential contractor or vendor of the County. A Financial Interest is not necessarily a conflict of interest in all cases. A person with a Financial Interest may be determined to have a conflict of interest only if the Lancaster County Board of Commissioners determines that a conflict of interest exists.

### **ARTICLE III. PROCEDURES**

1. Duty to disclose: In connection with any actual or possible conflict of interest, an Interested Person must disclose the existence of the Financial Interest and be given the opportunity to disclose all material facts to the Lancaster County Board of Commissioners prior to issuance of a bid or contract.
2. Determining whether a conflict of interest exists: Any disclosure regarding Financial Interests shall be communicated to the Lancaster County Board of Commissioners prior to issuance of an award of bid or contract. After disclosure, the County Board shall determine whether a conflict exists and the appropriate remedy if necessary.
3. Procedures for addressing the conflict of interest: After exercising due diligence, the County Board shall determine how to appropriately screen the Interested Person from the bidding and award process. If the Interested Person cannot be effectively screened from the process, an alternative transaction or arrangement shall be investigated.
4. Disciplinary action: If the County Board has reason to believe an individual has failed to disclose actual or potential conflicts of interest, it will inform the individual and allow him/her to explain the alleged failure to disclose. If the County Board still has reason to believe a conflict of interest exists after the alleged conflict is explained, it will take corrective action.