# Purchasing and Procurement

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**Purchasing Procedures and Procurement of Goods, Services and Professional Services**

Documented purchasing and procurement procedures establish authority and mechanics for organizations to purchase goods and services, including professional services from consultants or contractors. Grantees must have policies and procedures governing the purchase and procurement of supplies, equipment, contractual services, and other items, to ensure funds are expended in accordance with an approved budget, with consideration of the availability of funds to pay for such purchases, and in compliance with contractual provisions and relevant laws and regulations.

Grantees shall follow their own purchasing procedures provided the procurement conforms to applicable federal law and the standards identified in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, specifically 200 CFR 318 through 200 CFR 326. Click on 200 CFR 318 and then click next at the top of the page to see what needs to be in an organization's procurement policy.

Grantees' policies and procedures must include segregation of duties to ensure no one individual has the authority or responsibility to order, receive purchases, approve invoices for payments, make payments, sign checks and mail payments. When applicable, purchase orders or other purchase contract documents must include clauses required by federal statutes and executive orders, their implementing regulations, and the grant contract provisions.

**Selecting, Hiring, and Contracting with External Organizations**

**Consultants:** Consultants are experts or people who hold special knowledge or skills, or who give professional or legal advice. Consultants are hired on a contractual basis and are not employees. Consultants can also be professionals hired to provide specialized or specific training.

**Professional Services:** Professional services are unique, technical or infrequent functions performed by an outside entity, qualified by education, experience or technical skills and abilities. Examples of professional services include providing therapy, project evaluation, marketing, conducting audits, providing translation or interpretation services, and payroll services.

**Vendors:** Vendors provide goods and services within normal business operations, provide similar goods and services to different purchasers, operate in a competitive environment, and are not subject to grant compliance requirements. Examples of vendors are office supply/equipment companies, print companies, repair and maintenance companies, and pest control companies.

When contracting with either an individual or an organization, consider the reputation, experience, and demonstrated capacity to provide services, supplies, or equipment. Contractual agreements should include termination language to protect against misrepresentation of the quality, quantity, price, and deadlines or delivery of the goods or services being purchased.

When selecting vendors, if possible, obtain three price quotations or competitive bids. Under certain

circumstances, supplies, equipment, services, or other items may be purchased without bids or quotations. Quotations may not be necessary if a qualified contractor, is the sole source of the items to be purchased, or, in case of emergency, when immediate delivery is necessary for the entity's continued provision of adequate services.

All sole-source purchases should be reviewed and approved by the person authorized to approve such purchases. A written justification explaining emergency and sole-source purchases exceeding an amount determined by management should be attached to purchase order or purchase agreement.

The type of contractual agreement a grantee issues depends on the contractual relationship based on the nature of the agreement and the criteria in the Uniform Requirements see 2 CFR 200.

Prior to entering into a business relationship with another entity, grantees should have contracts, or agreements in place. A contract is a legal instrument by which one party purchases goods or services from another party. When contractual expenses are charged to a victim service grant, the goods or services being purchased must be reasonable and necessary to meet the goals and objectives of the project.

**Professional service agreements** are contractual documents to be used to pay for direct services for clients. The grantee or the grantee's clients are the beneficiaries of the services to be provided. Professional fee-for-service contracts are used for the purchase of direct services to clients such as counseling services, or legal services.

**Vendor and consultant agreements** are contractual documents to be used for the purchase of goods or services. The grantee or the grantee's clients are the beneficiaries of the goods or services being purchased. Vendor contracts are used to purchase goods and services NOT directly linked to client services, such as lawn care services, copier agreements, cleaning contracts, etc. Consultant agreements are used to hire a professional to provide expertise, training or evaluation.

Consultant rates of payment are to be reasonable and consistent with fees for similar services in the marketplace. The federal Department of Justice determines consultant rates. The consultant rate limit is $650 per day or $81.25 per hour. This does not mean the rate can or should be the maximum limit for all consultants. Rates should be established on a case-by-case basis and must be reasonable and allowable. The term daily rate refers to an eight-hour day. An eight-hour day may include preparation, evaluation, and travel time in addition to the time required for actual performance. If a consultant's rates are greater than the maximum rates allowed no portion of the consultant's fees can be paid with federal funds, not even the portion that meets the federal standards. Grantees wishing to exceed the maximum rates allowed must receive prior written permission from their grant coordinator.

**Subaward agreements** are issued when the two parties mutually benefit and have shared interests and expertise in the implementation and delivery of one or more programmatic aspects of a program or project. A subaward is an award provided by a pass-through entity to an organization to carry out a project. A grantee relationship exists with another entity when the entity has the ability to determine who is eligible to receive assistance, has its performance measured against whether the objectives of the state/federal program are met, has responsibility for programmatic decision-making, has responsibility for adherence to applicable state/federal program compliance responsibilities, or uses grant funding to carry out its own grant programming, rather than just providing goods and services. Subawards do not include payments to contractors or individuals. Subawards usually include the scope of work, or a description of the services to be provided, budget, reporting requirements, federal pass-through requirements and certified assurances.

***Grantees must obtain prior approval from their grant coordinator before issuing subawards.** Details of the subaward must be included in the approved budget and budget justification and might require an amendment/revision request. Grantees will be required to monitor their subawardees and complete the Subcontract Monitoring Form .

**Solicitations for Procurement Transactions**

Grantees must conduct **all procurement transactions** in a manner providing full and open competition consistent with the Procurement Standards in the Uniform Requirements at CFR 200.319. This requirement holds whether procurement transactions are negotiated or competitively bid, and without regard to dollar value. To avoid unfair competitive advantage, contractors who develop or draft specifications, requirements, statement of work and invitations for bids or requests for proposals, must be excluded from competing for such procurement.

Grantees must not create unreasonable restrictions on competition under the award. This applies with respect to any procurement of property or services that is funded (in whole or in part) by funding from the Department, regardless of the dollar amount of the purchase or acquisition, the method of procurement, or the nature of any legal instrument used as noted in (DOJ) Part 200 Uniform Requirements--including as set out at 2 C.F.R. 200.300. No grantee may, in any procurement transaction, discriminate against any person or entity on the basis of such person's or entity's status as an "associate of the federal government," or on the basis of such person or entity's status as a parent, affiliate, or subsidiary of such an associate, except as expressly set out in 2 C.F.R. 200.319(a), or as specifically authorized by the US Department of Justice.

Written procedures for procurement transactions must ensure all solicitations incorporate a clear and accurate description of the technical requirements of the material, product, or service to be procured. Solicitations should also identify all requirements that must be fulfilled and all other factors to be used in evaluating bids and proposals.

To determine what method of procurement to be followed, please refer to CFR 200.320 (Methods of Procurement) in the Uniform Administrative Requirements.

Interagency agreements between units of local government are excluded from this provision.

**Procurement Standards**

Organizations, whose procurement system has been certified by a federal agency, is not subject to prior approval requirements of 28 CFR Parts 200. Victim Assistance Section's prior approval will only be required for areas beyond limits of the grantee's certification. Highlights include but are not limited to:

- Cost and Price Analysis (2 CFR, Section 200.323): Describe the process for performing a cost or price analysis for every procurement action in excess of the small purchase threshold (phone bids, 3 quotes, etc.).
- Noncompetitive Procurement (2 CFR, Section 200.320[f]): Describe the process for procuring goods and/or services that cannot be conducted through normal competitive procurement methods, including emergency or sole source procurement.
- Small Purchase Procedures (2 CFR, Section 200.320[b]): Describe the process for procuring goods, and/or services when the total dollar amount is less than your program's relevant small purchase threshold per procurement transaction.
- Formal Purchase Procedures (2 CFR, Section 200.320[c] and [d]): Describe the process for procuring goods and/or services when the dollar amount is more than your program's relevant small purchase threshold per procurement transaction.
- Duplication of Goods/Services (2 CFR, Section 200.318[d]): Describe the process used to ensure that there is no acquisition of unnecessary or duplicate goods or services.
- Gratuities, Favors, or Gifts (2 CFR, sections 200.318[c][1] and 400.2): Include a prohibition on soliciting or accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub agreements. Agencies may define a set of standards for situations in which financial interest or gratuity is not substantial or the gift is an unsolicited item of nominal value. If the latter is chosen, include the definition of nominal value.

**Non-Competitive Practices**

Grantees shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors who develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP's) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to the grantee's assigned grant coordinator.

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