

Procurement Policy for Purchases as Per Federal Regulations

Purpose of Procurement Standards

CVRAC has established procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds, as required by 45 CFR Part 74 – Uniform Administrative Requirements for Awards and Sub-awards to Institutions of Higher Education, Hospital, other Nonprofit Organizations and Commercial Organizations; Subpart C – Post-Award Requirements, Procurement Standards. This Policy is to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders. The standards apply where the cost of the procurement is treated as a direct cost of an award.

Codes of Conduct

CVRAC maintains these written standards of conduct that govern the performance of its employees engaged in the award and administration of contracts.

- No CVRAC employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, or 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 the firm selected for an award.
- The officers, employees and agents of CVRAC shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements.

Competition

- CVRAC procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- CVRAC shall be alert to organizational conflicts of interest as well as non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft grant applications, or contract specifications, requirements, statements of work, invitations for bids and/or requires for proposals shall be excluded from competing for such procurements.
- Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to CVRAC, price, quality and other factors considered.
- Solicitations shall clearly set forth all requirements that the bidder or offer or shall fulfill in order for the bid or offer to be evaluated by CVRAC.
- Any and all bids or offers may be rejected when it is in CVRAC's best interest to do so.

Procurement Thresholds

In compliance with requirements of the State of Texas, the following bid requirements will be met:

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<u>Dollar Threshold</u>	<u>Bid Requirement</u>
\$0 to \$5000	none
\$5,000.01 to \$25,000.00 (Non-information Technology related)	At least three bids from eligible vendors on the Centralized Masters Bidders List (CMBL) with 2 being CPA/TPASS-certified HUBS
\$25,000.01 and up	Solicitation from all eligible vendors on the Centralized Masters Bidders List (CMBL) and posting on the Electronic State Business Daily (ESBD)

Procurement Procedures

- (a) CVRAC has created these procedures that shall provide for, at a minimum, that:
- (1) CVRAC will avoid purchasing unnecessary items;
 - (2) Where appropriate, CVRAC will analyze which would be the most economical and practical procurement by reviewing lease and purchase alternatives.
 - (3) CVRAC will require solicitations for goods and services provide for all of the following:
 - a. A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
 - b. Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.
 - c. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
 - d. The specific features of “brand name or equal” descriptions that bidders are required to meet when such items are included in the solicitation.
 - e. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
 - f. Preference, to the extent practicable and economically feasible, of products and services that conserve natural resources and protect the environment and are energy efficient.
- (b) Good faith efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women’s business enterprises, whenever possible. CVRAC shall take all of the following steps to further this goal.
- (1) Ensure that small businesses, minority-owned firms, and women’s business enterprises are used to the fullest extent practicable.
 - (2) Make information of forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women’s business enterprises.
 - (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women’s business enterprises.
 - (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women’s business enterprises when a contract is too large for one of these firms to handle individually.

- (5) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.
- (c) CVRAC shall determine the type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) that shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. CVRAC shall not use "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting.
- (d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of E.O.s 12549 and 12689, "Debarment and Suspension." (See 45 CFR part 76.)
- (e) CVRAC shall, on request, make available for the HHS awarding agency, pre-award review, procurement documents such as requires for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:
 - (1) CVRAC's procurement procedures or operations fails to comply with the procurement standards in this Part.
 - (2) The procurement is expected to exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently \$100,000) 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 award over the simplified acquisition threshold is to be awarded to other than the apparent low bidder under sealed bid procurement.
 - (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the simplified acquisition threshold.

Cost and Price Analysis

CVRAC will complete a cost and price analysis and document the findings in the procurement files in connection with every procurement action. CVRAC may accomplish price analysis in various ways, including, but not limited to: the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

Procurement Records

Procurement records and files for federal purchases in excess of the simplified acquisition threshold shall include the following at a minimum:

- (1) Basis for contractor selection;
- (2) Justification for lack of competition when competitive bids or offers are not obtained; and
- (3) Basis for award cost or price.

Contract Administration

CVRAC Finance team will create and maintain a system for contract administration to ensure contractor conformance with the terms, conditions and specifications of the

contract and to ensure adequate and timely follow up of all purchases. CVRAC shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

Contract Provisions

CVRAC shall place the following in all contracts and the following provisions shall also be applied to subcontracts:

- (a) Contracts in excess of the simplified acquisitions threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.
- (b) All contracts in excess of the simplified acquisition threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
- (c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds \$100,000. For those contracts or subcontracts exceeding \$100,000, the HHS awarding agency may accept the bonding policy and requirements of the recipient, provided the HHS awarding agency has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:
 - (1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
 - (2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - (3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in execution of the work provided for the contract.
 - (4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223 "Surety Companies Doing Business with the United States."
- (d) All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by recipients shall include a provision to the effect that the recipient, the HHS awarding agency, the U.S. Comptroller General, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.
- (e) All contracts, including small purchases, awarded by CVRAC and their contractors shall contain the procurement provisions of appendix A to this part as applicable.