AP 6301 Procedures for Federal Grant Funds

References:
2 Code of Federal Regulations Parts 200.317-200.326
2 Code of Federal Regulations 200.330 Sub Recipient Monitoring &
BP/AP 2710–Conflict of Interest and AP 2712–Conflict of Interest Code
2 CFR 200.12, 200.13, 200.20, 200.33, 200.48, 200.58, 200.89, 200.313, and 200.439

Procurement

The District shall comply with the standards specified in 2 CFR 200.317-200.326 and Appendix II of Part 200 when procuring goods and services needed to carry out a federal grant, as well as other applicable state laws and district policies concerning the procurement of goods and services.

As appropriate, the Vice President for Finance and Administrative Services or designee shall consider and encourage the most economical and efficient use of funds prior to making purchase decisions. The purpose of such action is to avoid the acquisition of unnecessary or duplicative items.

The procurement of goods or services with federal funds shall be conducted in a manner that provides full and open competition in accordance with state laws and district regulations and the following requirements:

1. Any purchase of supplies or services that does not exceed threshold specified in 48 CFR 2.101 (currently $3,500 and subject to change) may be awarded without soliciting competitive quotes, provided the district considers the price to be reasonable and maintains written evidence of this reasonableness in the record of all micro-purchases. (2 CFR 200.67, 200.320)

2. For any purchase that exceeds the micro-purchase threshold but is less than the bid limit required by Public Contract Code sections 20650 and 20651, the superintendent/president or designee shall obtain price or rate quotes from at least two qualified sources. (2 CFR 200.320)

3. Contracts for goods or services over the bid limits required by Public Contract Code sections 20650 and 20651 shall be awarded pursuant to California law and BP 6330–Purchasing and Contracts, unless exempt from bidding under the law.

4. If a purchase is exempt from bidding and the district's solicitation is by a request for proposals, the award may be made by either a fixed-price or cost-reimbursement

type contract awarded to the entity whose proposal is most advantageous to the program, with price and other factors considered. (2 CFR 200.320)

5. Procurement by noncompetitive proposals (sole sourcing) may be used only when the item is available from a single source, the need or emergency will not permit a delay resulting from competitive solicitation, the awarding agency expressly authorizes sole sourcing in response to the district's request, and/or competition is determined inadequate after solicitation of several sources. (2 CFR 200.320)

6. Time-and-materials-type contracts may be used only 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. Time-and-materials-type contract means a contract whose cost is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general administrative expenses, and profit. (2 CFR 200.328)

For any purchase of $25,000 or more, the Purchasing department shall verify any vendor that is used to procure goods or services is not excluded or disqualified by the federal government. (2 CFR 180.220, 200.213)

All solicitations shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description shall avoid detailed product specifications to the extent possible, but may include a statement of the qualitative nature of the material, product, or service to be procured, and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or not economical to make a clear and accurate description of the technical requirements, a brand name or equivalent description may be used to define the performance or other salient requirements of procurement, clearly stating the specific features of the named brand that must be met by offers. In addition, every solicitation shall identify all requirements that the offer must fulfill and any other factors to be used in evaluating bids or proposals. (2 CFR 200.319)

Business and Contract Services shall maintain sufficient records to document the procurement, including, but not limited to, the rationale for the method of procurement, selection of the contract type, contractor selection or rejection, and the basis for the contract price. (2 CFR 200.318)

Business and Contract Services shall ensure all contracts for purchases using federal grant funds contain the applicable contract provisions described in Appendix II to Part 200–Contract Provisions for Nonfederal Entity Contracts Under Federal Awards. (2 CFR 200.326)

§200.330 Sub-recipient and contractor determinations

The non-Federal entity may concurrently receive Federal awards as a recipient, a sub-recipient, 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 sub-recipient 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) *Sub-recipients.* A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the sub-recipient. See §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a sub-recipient 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 contractor:

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 sub-recipient 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.

Capital Expenditures

The grant coordinator (i.e. approving authority for the department) shall obtain prior written approval from the awarding agency before using federal funds to make capital expenditures, including the acquisition of land, facilities, equipment, and intellectual property and expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. (2 CFR 200.12, 200.13, 200.20, 200.33, 200.48, 200.58, 200.89, 200.313, 200.439).

Approval from the awarding agency must be attached to the purchase requisition.

Conflict of Interest

No member of the Board of Trustees, District employee or representative shall participate in the selection, award, or administration of a contract supported by federal funds if he/she has a real or apparent conflict of interest, such as when he/she or a member of his/her immediate family, his/her partner, or an organization which employs or is about to employ any of them has a financial interest in or a tangible personal benefit from a firm considered for a contract. Such persons are prohibited from soliciting or accepting gratuities, favors, or anything of monetary value from contractors or subcontractors unless the gift is an unsolicited item of nominal value. (2 CFR 200.318)

Employees engaged in the selection, award, and administration of contracts shall also comply with BP/AP 2710–Conflict of Interest and AP 2712–Conflict of Interest Code.

Personnel

All district employees who are paid in full or in part with federal funds, including employees whose salary is paid with state or local funds but is used to meet a required match or in-kind contribution to a federal program, shall document the amount of time they spend on grant activities (2 CFR 200.430). The grant coordinator (i.e. approving authority for the department) shall track and monitor payroll expenditures charged against the grant funding source under his/her responsibility.

Records

Except as otherwise provided in 2 CFR 200.333, or where state law or district policy requires a longer retention period, financial records, supporting documents, statistical records, and all other district records related to a federal award shall be retained for a period of three years from the date of submission of the final expenditure report or, for a federal award that is renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. Such documentation is the responsibility of the grant's program coordinator (2 CFR 200.333)

Audits

Whenever the district meets or exceeds the threshold required for a single audit or program-specific audit during a fiscal year, it shall arrange for an audit in accordance with 2 CFR 200.507 or 200.514. (2 CFR 200.501). The audit shall meet the requirements specified in 2 CFR 200.500-200.521.

Specified records pertaining to the audit of federal funds expended by the district shall be transmitted to the clearinghouse designated by the federal Office of Management and Budget and shall be made available for public inspection. Such records shall be transmitted within thirty (30) days after receipt of the auditor's report or within nine (9) months after the end of the audit period, whichever is sooner, unless a longer period is agreed to in advance by the federal agency or a different period is specified in a program-specific audit guide. (2 CFR 200.512)

In the event the audit identifies any deficiency, the Vice President for Finance and Administrative Services or designee shall promptly act to either correct the identified deficiency, produce recommended improvements, or demonstrate the audit finding is invalid or does not warrant action. (2 CFR 200.26, 200.508, 200.511).

The books, records, and internal controls of the district shall be compliant with Generally Accepted Government Auditing Standards (GAGAS) and/or Generally Accepted Accounting Principles (GAAP), as applicable.

Office of Primary Responsibility: Finance and Administrative Services