

## **WILLIAM JEANES MEMORIAL LIBRARY**

### **Library Bid and Procurement Policy When Using Federal Funds**

#### **Purpose**

The purpose of this policy is to establish standards and controls for the purchase of goods and services for the William Jeanes Memorial Library (hereafter known as the Library) when federal funds are being used. This policy is intended to facilitate full and open competition and cost-effective purchases as well as to ensure proper accountability.

#### **Expenditure Authorization**

All expenditures must be authorized in the Library's approved budget. New budget appropriations must be approved by the Library board concurrently with contract approval, and will be reflected in any periodic budget updates.

#### **Purchase method <sup>1</sup>**

When using federal funds, the Library is generally expected to engage in competitive procurements compliant with applicable federal regulations, unless either the requirements for a sole source procurement are met under federal regulation.

The methods of competitive procurement under federal regulation are (a) procurement by micropurchase, (b) procurement by small purchase, (c) procurement by sealed bids, and (d) procurement by competitive proposal.

- a. Generally, procurement by micropurchase may occur for the acquisition of supplies or services where the aggregate amount does not exceed \$3,500. Micropurchases may occur without soliciting competitive quotations if the price is reasonable. To the extent practicable, the Library shall distribute micro-purchases equitably among qualified suppliers.

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<sup>1</sup> The following describes the five procurement methods currently allowed under the federal Uniform Grants guidance. Each entity must have documented procurement policies which provide detail on the process by which all purchases are made, and which are tailored to state law or other restrictions applicable to the specific type of library. Note applicable dollar thresholds for purchases using federal funds that are stated in this draft policy may change periodically and should be regularly reviewed. Where more restrictive requirements of state law may be applicable, the more restrictive state procedure must be followed.

b. Procurements by small purchase procedures may apply where purchases do not exceed the Simplified Acquisition Threshold (currently, \$150,000). Small purchase procedures permit simple and informal procurement methods provided price or rate quotations are obtained from an adequate number of qualified sources.

c. For purchases over \$150,000, sealed bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.<sup>2</sup>

d. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- Proposals must be solicited from an adequate number of qualified sources; and
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

### **Noncompetitive Proposals**

Procurement by noncompetitive proposals means procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

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<sup>2</sup> The sealed bid method is the preferred method for procuring construction, and is feasible if the following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

1. The item is available only from a single source.
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. An emergency exists whenever the time required for the Board to act in accordance with regular procedures would endanger life or property or threaten continuance of existing school classes.
3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the district.
4. After solicitation of a number of sources, the district determines the competition is inadequate.

### **Full and Fair Competition**

All procurement transactions must be conducted in a manner providing full and open competition consistent with 2 CFR Sec. 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business.
2. Requiring unnecessary experience and excessive bonding.
3. Noncompetitive pricing practices between firms or between affiliated companies.
4. Noncompetitive contracts to consultants that are on retainer contracts.
5. Organizational conflicts of interest.
6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement.

7. Any arbitrary action in the procurement process.

**Cost Analysis**

The Library performs a cost or price analysis in connection with every procurement action involving federal funds in excess of \$150,000, including contract modifications. 2 C.F.R. § 200.323(a). A cost analysis generally means evaluating the separate cost elements that make up the total price, while a price analysis means evaluating the total price, without looking at the individual cost elements

When performing a cost analysis, the Library negotiates profit as a separate element of the price. To establish a fair and reasonable profit, consideration is 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. 2 C.F.R. § 200.323(b).