

CITY OF LAKE ELSINORE, CALIFORNIA

COUNCIL POLICY MANUAL

SUBJECT: Administration of Federal Award Programs

Policy No. 300-15

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1. Purpose of Policy.

The purpose of this policy is to adopt procedures that apply to certain “cooperative agreements”, “grant agreements”, “federal financial assistance”, and “cost-reimbursement contracts” all otherwise known as “federal awards” as these terms are defined in the Code of Federal Regulations (“CFR”). (See 2 CFR 200.38, 200.24, 200.40, and 200.51).

To the extent that there may be federal requirements for a city to follow in the selection, award or administration of a contract supported by a federal award that are not covered by this policy, the City will use its best efforts to comply with those requirements. Those requirements are generally set forth in 2 CFR 200.318-200.326, as the same may be amended from time to time.

2. General Procurement Standards for Federal Award Programs.

The City Administrative Services Department shall maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. To that end, the Administrative Services Department requires that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured, and identify all requirements which must be fulfilled and all other factors to be used in evaluating bids or proposals. The Administrative Services Department shall ensure that all prequalified lists of persons, firms or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. (2 CFR 200.318(b); 2 CFR 200.319(b), (c), and (d)).

3. Conflicts of Interest.

No employee, officer, or agent of the City may 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 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. Any violation of this section shall result in appropriate disciplinary action. (2 CFR 200.318(c)(1)).

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4. Unnecessary or Duplicative Items.

The City will avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. The City encourages the use of federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. (2 CFR 200.318(d) and (f)).

5. Award of Contracts.

The City shall award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. The City shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preferences. (2 CFR 200.318(h); 2 CFR 200.319(b)).

6. Methods of Procurement to be followed.

The City will use one of the following methods of procurement.

- (a) Procurement by micro-purchases. Procurement by micro-purchases is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (2 CFR 200.67 Micro-purchase). The current threshold is \$3,500 (subject to change).
- (b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. The current threshold is \$150,000 (subject to change).
- (c) Procurement by sealed bids (formal advertising). Bids are publicly solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

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(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally based on price.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. 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:

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(1) 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;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The City must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The City may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. 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.

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

(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;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of several sources, competition is determined inadequate.

(2 CFR 200.320).

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7. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

(a) The City will take all necessary affirmative steps to assure that minority businesses, 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. (2 CFR 200.321).

8. Contract Cost and Price.

The City will 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 facts surrounding the procurement; however, the City will make independent estimates before receiving bids or proposals. (2 CFR 200.323).

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9. Financial Management.

The City's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, will be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. The City's financial management systems will include, as appropriate, the information listed in 2 CFR 200.302.

10. Internal Controls.

The City will:

(a) Maintain effective internal control over the Federal award that provides reasonable assurance that the City is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(c) Evaluate and monitor the City's compliance with statutes, regulations and the terms and conditions of Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

(e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the City considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality. (2 CFR 200.303).

11. Requirements for Pass-Through Entities.

To the extent that the City is a pass-through entity (as that term is defined in 2 CFR 200.74), the City, where applicable, will follow the requirements and guidelines of 2 CFR 300.331.