

14 Keys to Successful Procurement with Federal Grant Funds

1. **Grants “Point Person”:** Each department (if you have de-centralized purchasing) or each finance/purchasing department (if you have centralized purchasing) must have a grants “point person” who is detail-oriented, who will read grant documents carefully, who will flag relevant rules and requirements for appropriate personnel involved in grant-funded projects and purchases, and who is given the authority and ability to explain and enforce grant rules throughout the department or unit of government.
2. **Document Review:** When your local government receives a grant, the appropriate point person (see Step # 1) should gather all grant documents, and read them.
 - a. The point person must identify the agency (state or federal) that has awarded the grant. (This is extremely important.)
 - b. The point person must **not** ignore references to OMB Circulars, the Code of Federal Regulations (C.F.R.), or other documents that seem unfamiliar. The person should ask your attorney to assist them with finding and identifying the referenced items, and the point person should review those as well.
 - c. The point person must look for a contact name at the awarding agency, along with a contact email address or phone number, and flag it for future reference.
3. **Training:** Provide regular training (repeated at least once a year, and as part of orientation for new staff members who may have any involvement in grant-funded projects or purchases) on the importance of complying with grant rules. Training can be as simple as this: (1) provide a brief explanation of what grants are (money from state or federal agencies); (2) note that different rules usually apply to projects and purchases involving grant funding; (3) clarify the consequences of failure to comply with the grant rules (loss of grant funding, which could be very expensive to the unit, and could even cost jobs); and (4) provide a contact name and phone number for the person who can answer questions about grants (see Step # 1).
4. **Code of Conduct:** Your local government must maintain a written code of conduct. The code must
 - o address the performance of employees engaged in the award and administration of contracts; conduct must provide that no employee, officer, or agent of your local government shall participate in the award or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved; and
 - o more specifically, the code of conduct should provide that a real or apparent conflict of interest would arise when any of the following has a financial or other interest in the firm selected for an award: (1) an employee, officer, or agent involved in selection, award, or administration of a contract supported by federal funds, (2) members of that person’s immediate family, (3) that person’s partner (“partner” is not defined, but presumably includes the person’s spouse or domestic partner), or (4) that person’s current (or soon-to-be) employer, or the current (or soon-to-be) employer of members of that person’s immediate family, or the current (or soon-to-be) employer of that person’s partner.
 - o prohibit officers, employees, or agents of your local government from asking for or receiving gifts or favors from contractors, potential contractors, or parties to sub-

- agreements, although your local government may set exceptions for unsolicited gifts of “nominal” value.
- establish disciplinary actions for violations of the standards set out in the code, to the extent permitted by State or local law. XX C.F.R. XX.36(b)(3).
5. **Contract Administration System:** You must create, maintain, and use a contract administration system. This means you must regularly monitor your contracts and purchases to ensure that each contractor/vendor is complying with their contract terms, conditions, and specifications. XX C.F.R. XX.36(b)(2). (If a contractor/vendor is not in compliance with contract terms, conditions, or specifications, you should take the steps outlined in the contract for contractor/vendor noncompliance).
 6. **Bid Protest Procedures:** You must create and follow a bid protest procedure. XX C.F.R. XX.36(b)(12). The Grants Management Common Rule doesn’t specify what the procedure must include—it just says you must have a procedure. For additional guidance on developing bid protest procedures, review the blog post here: <http://sogweb.sog.unc.edu/blogs/localgovt/?p=1129>.
 7. **“Most restrictive”:** When reconciling federal rules, state statutes, and local policies, apply the “most restrictive” test—in other words, comply with the rule, statute, or policy that is the most restrictive. (For example, if the state statutes say you don’t have to bid something out, but the federal regulations say you do have to bid it out, then you must follow the federal regulations and bid it out.)
 8. **Purchasing policy:** You must create, maintain, and follow “written selection procedures for procurement transactions”—in other words, a purchasing policy. The policy must ensure that all solicitation documents (i.e., ITBs, IFBs, RFPs, RFQs):
 - Incorporate a clear and accurate description of the technical requirements for the materials, product, or service to be procured. The description must not unduly restrict competition, but may describe the quality (of material, product, or service) sought and state the minimum essential characteristics required. (If it’s impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as short-hand, but must be accompanied by a clear statement of the specific features of the named brand that must be met by offerors.)
 - Avoid detailed product specifications if at all possible.
 - Identify all requirements which the bidders or proposers must fulfill.
 - Identify all factors to be used in evaluating bids or proposals. XX C.F.R. XX.36(c)(3).
 - This policy should also establish a method for evaluating proposals received in response to Requests for Proposals (RFPs). XX C.F.R. XX.36(d)(3)(iii). This policy should address how to develop evaluation criteria, how to put together an evaluation committee, and how to score proposals.
 9. **Working with Minority/Women-Owned Businesses:** You must take certain steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible. These steps are:
 - Place qualified small and minority businesses and women’s business enterprises on solicitation lists;

- Assure that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
 - Divide total requirements into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
 - Establish delivery schedules which encourage participation by small and minority businesses and women's business enterprises;
 - Use the services and assistance of the Small Business Administration (<http://www.sba.gov>) and the Minority Business Development Agency of the Department of Commerce (<http://www.mbda.gov>); and
 - Require prime contractors to take the same steps listed above. XX C.F.R. XX.36(e).
10. **Prequalification/Bidders' Lists:** If you maintain a bidders' list or a list of prequalified firms or products, you must ensure that these lists are kept current (in other words, regularly update the lists to ensure that no qualified firms or products are excluded). XX C.F.R. XX.36(c)(4).
11. **Debarred or Suspended Contractors or Vendors:** Always check the Excluded Parties List System website (<https://www.epls.gov/>) before awarding a contract. You will lose your grant funding if you award a grant-funded contract to a person or company on that list. XX C.F.R. XX.35.
12. **Include Required Contract Terms:** Instead of using your usual terms and conditions, make sure that contract terms required by the Grants Management Common Rule, as well as any additional terms required by your specific grant, are included in your contracts.
13. **Documentation and record retention schedules:** Document every decision made regarding federally funded purchases and projects, and maintain records relating to federally funded purchases and projects for three years after the procurement or project is complete. (For more details regarding record retention schedules, see XX C.F.R. XX.42.)
14. **Disposal of Property:** Dispose of property purchased with federal grants funds as required by the Grants Management Common Rule. (See XX C.F.R. XX.31 through XX C.F.R. XX.32.)