

PROCUREMENT AND CONTRACT MANAGEMENT

Office of University Partnerships

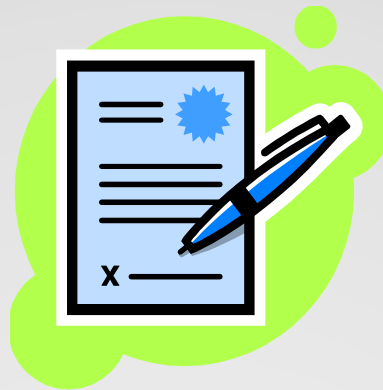


- The regulations at 24 CFR part 84 govern the implementation of federal grants and agreements
- Requirements are applicable to institutions of higher education
- Also applicable to sub-recipients and sub-grant awards



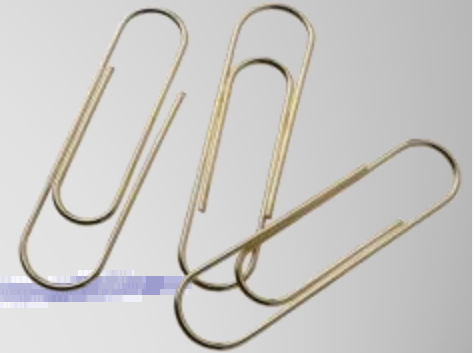
24 CFR PART 84

- Procurement standards are found at §84.40 through §84.48
- Standards apply to the award of all contracts, regardless of amount and type (i.e., construction and service contracts)



Procurement Standards

- Procurement standards ensure that materials and services are obtained in an effective manner in compliance with federal statutes and executive orders
- Applicable to the procurement of supplies, expendable property, equipment, real property, and other services using federal funds



Purpose (§84.40)

- The grantee is responsible for the award and administration of its contracts, without recourse to HUD
- HUD is not a party to any disputes, claims, or protests by third parties arising from the procurement process



Recipient Responsibilities (§84.41)

- The grantee must maintain written standards that govern the performance of its employees involved in contract award and administration
- The standards must define and prohibit conflicts of interest and provide for disciplinary actions should violations occur

Codes of Conduct (§84.42)



- All procurement actions must provide for free and open competition
- To eliminate unfair advantage, contractors who prepare preliminary drawings, specifications, SOWs, IFBs, RFPs, etc. shall be excluded from competition
- Awards must go to the bid or proposal that is most advantageous to the grantee based on price, experience, work quality, and other factors including Section 3 compliance



Competition (§84.43)

All grantees must have written procurement procedures that govern the contract solicitation and award process. The procedures must be consistent with the requirements of 24 CFR part 84.



Procurement Procedures (§84.44)

Solicitations for goods and services must provide for the following:

- Clear description of the material, product, or service to be procured.
- Requirements the contractor must fulfill and all factors to be used in evaluating bids or proposals.
- Description of the job's technical requirements, including the range of acceptable characteristics or minimum acceptable standards.
- "Brand name or equal" descriptions that bidders must meet when such items are included in the solicitation.
- Preference for products and services that conserve natural resources, protect the environment, and are energy efficient.

Procurement Procedures (§84.44)

Positive efforts shall be made by grantees to hire small businesses, minority-owned firms, and women's business enterprises, whenever possible.



Procurement Procedures (§84.44)

The procurement method must be appropriate to the contract type

- Small purchase procedures (contracts of \$100,000 or less)
- Request for proposals (service contracts where price is one of several factors)
- Invitation for bids (construction contracts to be awarded to the lowest responsible bidder)



Procurement Procedures (§84.44)

Some form of price or cost analysis must be performed and documented for every procurement action

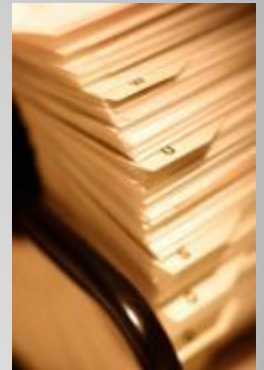
- Price analysis may be used for simple purchases by comparing price quotes
- Cost analysis is used for more complex contracts where each element of cost is evaluated to determine reasonableness, allocability, and allowability



Cost and Price Analysis (§84.45)

Procurement records must contain the following information:

- Basis for contractor selection
- Justification for lack of competition when competitive bids are not obtained
- Basis for award cost or price



Procurement Records (§84.46)

Grantees must evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract



Contract Administration (§84.47)

Grantees must include the following provisions in all contracts/subcontracts:

- For contracts over the small purchase threshold, administrative, contractual, or legal remedies for contractor violations
- For contracts over the small purchase threshold, termination by the grantee and the basis for settlement
- For construction contracts in excess of \$100,000, bid guarantees equivalent to 5 percent of the bid price, performance bonds for 100 percent of the contract price, and payment bonds for 100 percent of the contract price.
- For all contracts, the grantee, HUD, or other duly authorized government officials shall have access to any contractor documents or records that are pertinent to the grant
- For all contracts, the procurement provisions found at 24 CFR part 84, Appendix A, as applicable.



Contract Provisions (§84.48)

- Refers to Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u] as codified at 24 CFR part 135, subparts B and E
- Economic opportunities (employment, training, and/or contracting) shall be directed to low-income persons
- Applies to construction/rehabilitation projects



Section 3

- Experience
- Knowledge of similar projects
- Familiarity with federal requirements
- Record of past performance
- Financial and technical capacity
- Price
- Section 3 compliance
- Availability



Evaluation Criteria

Contracts may not be awarded to individuals or firms that have been suspended or debarred from participation in federal programs, as listed in www.epls.gov



Excluded Parties List

- Section 110(a) of the Housing and Community Development Act of 1974 requires that prevailing wages under the Davis-Bacon Act be paid to construction workers when a contract exceeds \$2,000 or, in the case of housing rehabilitation, 8 or more units
- Wage determinations can be obtained online at www.wdol.gov

Labor Standards



- Volunteer labor is exempt from prevailing wage requirements per 24 CFR part 70
- The Contract Work Hours and Safety Standards Act requires overtime provisions for construction workers when contract exceeds \$100,000
- Additional information available from HUD's Office of Labor Relations field office staff (see www.HUD.gov for listing)



Labor Standards

- OUP Website: www.OUP.org
- Sherone Ivey: (202) 402-4200
- Ophelia Wilson: (202) 402-4390
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OUP Contacts

Please contact your assigned OUP staff member with any questions regarding grant implementation requirements

