



Purpose:

To establish procurement and contracting policies consistent with federal grant rules (2 CFR part 200).

Definitions:

Procurement – the purchase of supplies and other expendable property, equipment, real property and other services.

General Notes:

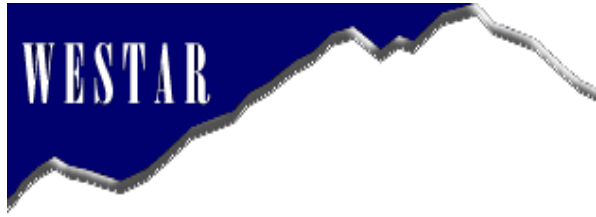
For procurement involving federal grant funds, recipients are required to certify that their policies and procedures reflect applicable Federal, State and local laws and regulations as well as those set forth in 2 CFR part 200. WESTAR's procurement system is intended to meet these requirements.

The following are the requirements of 2 CFR Part 200 for procurement of services and supplies under assistance agreements to non-profit organizations. 2 CFR Part 200 describes the minimum requirements for procurement. WESTAR will follow these requirements when entering into sub-agreements with contractors involving federal grant funds, and will typically follow these requirements when non-grant funds are used.

Policies and Requirements:

Standards of Conduct

All WESTAR employees engaged in the award and administration of contracts shall conform to the following code of ethics. WESTAR employees shall not participate in the selection, award, or administration of a contract if a real or apparent conflict of interest may be involved. Such a conflict would arise if the employee, any member of his/her immediate family, or an organization that employs or is about to employ an immediate family member, has a financial or other interest in or a tangible personal benefit from the firm considered or selected for the award. WESTAR employees shall not solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to sub-agreements. Disciplinary



action, including potential termination, will be taken against any WESTAR employee whose actions are contrary to this code of ethics.

Debarment and Suspension: A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Competition

WESTAR’s procurement transactions will be conducted in a manner to provide full and open competition consistent with the standards of 2 CFR 200.319. No contractor involved in the development of draft specifications, requirements, statements of work, invitations for bids or requests for proposals will be allowed to compete for such procurement.

WESTAR will conduct procurements involving federal awards in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. When contracting for architectural or engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

For all procurements, WESTAR will use one of the following methods of procurement, in accordance with 2 CFR 200.320: micropurchases, small purchase procedures, sealed bids, competitive proposals, or noncompetitive proposals:

- (a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-



purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(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.

(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 responsible 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.

(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 on the basis of 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 in order 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:

(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 non-Federal entity 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 non-Federal entity 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) [Reserved]

(f) 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 a number of sources, competition is determined inadequate.

Documentation

WESTAR will create and maintain, for review by granting agencies, the following documentation:

- the basis for selecting the specific contractor;
- written justification for selecting the method of procurement;

- written justification for any specification which does not provide for full and open competition;
- written justification for the specific type of sub-agreement employed;
- the basis for the cost of the award or price, including a copy of documentation of any negotiations.

Written justification for rejecting any bids will be maintained when any of the following conditions apply. And WESTAR also must make available, upon request, to the Federal awarding agency or pass-through entity pre-procurement review, all procurement documents, when any of the following conditions apply:

- a. WESTAR's procurement procedures fail to comply with the requirements of 2 CFR part 200; or
- b. The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or
- c. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product; or
- d. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent lowest bidder under a sealed bid procurement; or
- e. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

Cost and price analysis will be made and documented in connection with all procurement actions that exceed the Simplified Acquisition Threshold (currently \$150,000) including contract modifications. WESTAR will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed, in accordance with 2 CFR 200.323(b). Costs or prices based on estimated costs for contracts under a Federal award are allowable only to the extent that costs incurred or costs estimates included in negotiated prices would be allowable for WESTAR under 2 CFR part 200, subpart E.

Efforts to utilize small businesses, minority-owned firms, and women's business enterprises



WESTAR will take the steps outlined in 2 CFR 200.321 to assure that the services of small businesses, minority-owned firms, and women's business enterprises are used when possible.

Type of procurement instrument

WESTAR will choose a procurement instrument (e.g. fixed price contract, cost reimbursement contract, purchase order) that is most appropriate based on the nature of the program or project involved. The "cost plus a percentage of cost" or "percentage of construction cost" methods will not be used. A "time and materials" type contract will, if applicable, be used only after a determination that no other contract is suitable, and if used shall include a ceiling price that the contractor exceeds at its own risk, all in accordance with 2 CFR 200.318(j).

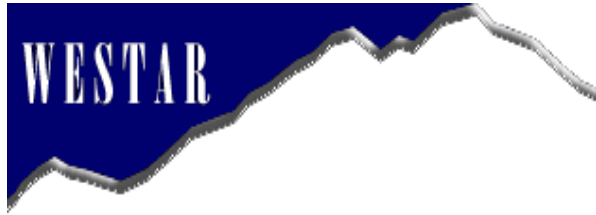
Contractor capabilities

WESTAR will only contract with responsible contractors who possess the potential ability to perform successfully under the terms of the procurement. Consideration will be given to contractor integrity, compliance with public policy, record of past performance, financial and technical resources or accessibility to other necessary resources.

Additional Policies Applying to All Procurement Transactions

The following apply to all procurement transactions:

- a. WESTAR will avoid purchasing any unnecessary or duplicative items.
- b. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.
- c. WESTAR will evaluate lease and purchase options to determine if these options are a more economical or practical use of grant funds.
- d. To foster greater economy and efficiency, WESTAR will, where appropriate, consider inter-entity agreements for procurement of use of common or shared goods and services.
- e. WESTAR will, where appropriate, use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.



- f. Solicitations and requests for bids will include the following:
 - i. A clear and accurate description of any technical requirements. Technical requirements must not contain features which unduly restrict competition.
 - ii. Bid evaluation factors.
 - iii. Technical requirements in terms of functions to be performed and minimum acceptable standards.
 - iv. The specific features of “brand name or equal” descriptions that bidders are required to meet; and,
 - v. WESTAR’s willingness to accept products and services dimensioned in the metric system.

Process Steps/Description:

All contracts, sub-agreements, and procurements will be made in accordance with the policies and requirements summarized above. A principle objective of these policies and rules is to ensure that WESTAR purchases provide the best possible value. An evaluation of alternatives should be made before each procurement transaction. In general, the higher the cost, the more comprehensive the evaluation of alternatives should be. WESTAR staff should adhere to the following guidelines when making purchases of goods, services, and equipment. Reasons for deviations from these guidelines should be included in the documentation supporting the procurement transaction.

Contractor Selection

Contractor Selection by WESTAR shall be done in compliance with procurement methods identified above. For procurement transactions in excess of \$150,000, WESTAR Board approval is required.



Sample forms to be used in WESTAR procurement transactions:

- Procurement Check List form
- Sample Contract/Service Agreement
- Offer Evaluation form

Contract Management

A system for contract management will be maintained to ensure contractor conformance with the terms, conditions, and specifications of the contract and to ensure adequate and timely follow up of all purchases. WESTAR will evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract. The WESTAR contract officer is responsible to ensure that contractors conform to the terms and conditions of the contract. In general, contracts will be written in such a way that funds will be held until the contract officer determines that the terms and conditions have been met.

Approval: 
WESTAR President

Date: October 12, 2016