Procuring Goods and Services Using Federal Funds

The guidance presented below in a question and answer format was developed by the California Department of Food and Agriculture (CDFA) to assist applicants that will require contractual services in order to complete their proposed project.

Q. When is it appropriate to utilize a contractor/consultant?

A. Applicants may contract for services that cannot be provided by staff employed by their organization. Generally, these services are for a short-term period and provide a specific and identifiable product or service. If awarded funds, applicants are responsible for ensuring their contractors/consultants comply with applicable federal regulations and requirements. Contracting out must not affect an applicant's overall responsibility for the management of the project, and the applicant must reserve sufficient rights and control to enable it to fulfill its responsibilities for the project.

Q. Are applicants required to have a procurement policy?

A. At a minimum, applicants must establish and follow a documented procurement policy which conforms to applicable federal law and reflects applicable state, local, and tribal laws and regulations. Reference 2 CFR 200.318 (https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200#200.318) for additional information on general procurement standards.

Q. What methods of procurement are available to applicants?

A. Applicants must use one of the following procurement methods for contractual services:

- Procurement by micro-purchase: Purchases of supplies or services at or below the micro-purchase threshold (currently $10,000) may be done without soliciting competitive bids, so long as the applicant believes the cost to be reasonable.

- Procurement by small purchase procedures: Relatively simple and informal procurement methods may be used for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (currently $250,000). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

- Procurement by competitive proposals: This method requires publicizing a request for proposals and usually occurs with more than one source submitting an offer. When using procurement by competitive proposals, applicants must have a written method for evaluating proposals and are required to select the proposal

that is most advantageous to the program, with price and other factors considered.

- Procurement by sealed bid: 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. This method of procurement is most common for construction and may be less common for applicants to the Specialty Crop Block Grant Program (SCBGP).

- Procurement by noncompetitive proposal: Also known as single source bidding, this practice is appropriate in very limited circumstances as described in 2 CFR 200.320 (c) (https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.320).

- Regardless of the procurement method selected, applicants are required to conduct a cost or price analysis, including developing an estimate prior to soliciting bids, for any procurements in excess of the Simplified Acquisition Threshold.

Q. What are the common types of compensation for contractors?

A. Contractual services generally fall in to one of three types:

1) Salaries and Wages: In this method of compensation, costs are based on the actual salary or hourly wage for the persons performing work under the contract. In addition to actual salaries, contracts may include charges for fringe benefits, travel, equipment, supplies, other costs, and indirect costs.

2) Fees for Professional Services: In this method of compensation, an hourly rate is paid for services provided. The rate does not necessarily reflect the actual salary of the person performing the contracted work and is typically inclusive of salary, fringe benefits, and overhead costs associated with the service provided.

3) Flat-Rate: In this method of compensation, a pre-determined rate is paid for services provided, rather than payment based on hours worked. If selecting a flat-rate contractor, the applicant must provide a justification for the flat-rate fee and demonstrate the rate is reasonable and consistent with fees in the marketplace for similar services. The inclusion of costs that would otherwise be unallowable within a flat-rate fee is prohibited.

Q. Are there any other factors to consider when selecting a contractor?

A. Applicants must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used

when possible. Reference 2 CFR 200.321 (https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200#200.321) for additional information.

Q. When is prior approval from CDFA required for contractual services?

A. Common examples when prior approval is required for applicants awarded SCBGP funds include:

- Selecting a contractor by noncompetitive proposal.
- Selecting a contractor with salaries and wages or fees for professional services that exceed the General Schedule (https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/) Grade 15 Step 10 (GS 15 Step 10) for the locality in which work will occur.
- Selecting a contractor that will utilize a flat rate fee structure.
- Selecting a contractor not already identified on the project application/scope of work.
- Changes in the fee structure of a previously approved contractor (e.g., changing from a flat rate fee structure to a fee for professional services).