ADMINISTRATIVE PURCHASING POLICY FOR PURCHASES INCLUDING FEDERAL GRANT FUNDS

I. Purpose
The purpose of this policy is to establish standards for the procurement of supplies and other expendable property, equipment, real property and other services as required by Federal regulations.

II. Scope
This policy applies to all purchases for goods or services and all contracts or leases made using Federal funds. Flow-through funds, or funds which are provided for at a federal level but administered by the State of Michigan through a cognizant agency (i.e. the Department of Labor & Economic Growth [DLEG] and the Office of Workforce Development [OWD]), are also governed by this policy.

III. Reference Documents
1. Office of Management & Budget Title 2, Code of Federal Regulations (CFR), Part 215 (formerly OMB Circular A-110; administrative requirements)
2. DLEG & OWD Policy Issuance (PI) No. 04-03 [State of Michigan]
3. MCC Board of Trustees Policies, including but not limited to, 4410 Purchasing, 5800 Employee Conduct and 5808 Conflict of Interest

IV. Procurement Procedures
1. Federal procurement transactions must be conducted in a manner as to provide (to the maximum extent practical) open and free competition, which includes the following specific provisions:
   i. Vendors who develop or assist in the drafting of specifications, requirements, statements of work, invitations to bid or requests for proposals are excluded from competing for such procurements
   ii. Prior to issuing the final approval for a requisition to purchase, the approving cost center manager is required by federal regulations to review the proposed procurement to ensure the avoidance of unnecessary or duplicative procurements.
   iii. For capital items, the Purchasing Department is required to conduct an analysis to determine whether the most economical approach to acquiring an asset is through lease or purchase and present such analysis to the grant manager for decision.
   iv. Solicitations for goods and services need the following:
      1. A clear and accurate description of technical requirements for the material, product, or service without unduly restricting competition
      2. A description of the technical requirements in terms of function to be performed and the range of acceptable characteristics or minimum acceptable standards
      3. The specific features of ‘brand name or equal’ descriptions that bidders are required to meet
      4. To the extent practical and economically feasible, the equivalent metric dimensions for the desired product or service
      5. Preference, to the extent practical and economically feasible, for products and services that are energy efficient and conserve and protect the environment
   v. An effort will be made to include small businesses, minority-owned firms and woman-owned business enterprises whenever possible
   vi. Consideration may be given to contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources
2. For all procurement actions in excess of the small purchase threshold ($25,000), the use of sealed bids or competitive proposals is required.
3. For small purchase procurement of property and/or services under $25,000 in the aggregate, a minimum of three quotes are required. It is not appropriate to break down one purchase into several small purchases to avoid the $25,000 threshold.

4. Non-competitive (sole source) procurements shall be limited to the following circumstances:
   i. The item is only available from a single source
   ii. There is a public emergency need for the item or service which does not permit a delay resulting from the use of competitive bidding
   iii. After a competitive solicitation, only one bid is received and/or competition is determined to be inadequate.

5. Written documentation of cost and/or price analysis is required for all procurements.

6. No award shall be made to any vendor who is debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs.

V. Records
Procurement records shall include, at a minimum:
1. Basis for vendor selection
2. Documentation of lack of competition when competitive bids or offers are not obtained
3. Basis for award cost or price

VI. Contract provisions
A system for contract administration will be maintained to ensure conformance with the terms and conditions of the contract. Vendors will be evaluated, as appropriate, to document conformance with terms, conditions and specifications of the contract. The provisions of Appendix A shall be included in all contracts, including small purchases, as applicable.

The following shall be included in all contracts in excess of the small purchase threshold and applied further to all subcontracts:
1. Provisions or conditions that allow for administrative, contractual or legal remedies in instances in which a contract breaches or violates the contract terms and provides for remedial actions where appropriate.
2. Suitable provisions for termination, including the manner by which termination shall be effected and the basis for settlement
3. A provision to allow the grant recipient, the Federal awarding agency, the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the vendor which are directly pertinent to the bid award for the purpose of making audits, examinations, excerpts and transcriptions.

For contracts exceeding $100,000, the following applies with regard to bonding:
1. A bid guarantee equivalent to five (5) percent of the bid price is required from each bidding vendor as assurance that the vendor will execute such contractual documents as may be required within the specified time period.
2. A performance bond for one-hundred (100) percent of the contract price must be provided by the awarded vendor to secure fulfillment of the contractor’s obligations under the contract.
3. A payment bond for one-hundred (100) percent of the contract price must be provided by the awarded vendor to assure payment as required by statute for all persons supplying labor and material in execution of the work provided for in the contract.
4. Bonds must be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR Part 223, “Surety Companies Doing Business with the United States.”
APPENDIX A TO PART 215—CONTRACT PROVISIONS

All contracts, awarded by a recipient including small purchase, shall contain the following provisions as applicable:


2. **Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c)**—All contracts and sub-grants in excess of $2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. **Davis-Bacon Act, as amended (40 U.S.C. 276a to a–7)**—When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) and as supplemented by Department of Labor regulations (29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction”). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)**—Where applicable, all contracts awarded by recipients in excess of $2000 for construction contracts and in excess of $2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR part 5). Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 11/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. **Rights to Inventions Made Under a Contract or Agreement**—Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
6. **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended**—Contracts and subgrants of amounts in excess of $100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).


8. **Debarment and Suspension (E.O.s 12549 and 12689)**—A contract award with an amount expected to equal or exceed $25,000 and certain other contract awards (see 2 CFR 180.220) shall not be made to parties listed on the government-wide Excluded Parties List System, in accordance with the OMB guidelines at 2 CFR part 180 that implement E.O.s 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System 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 E.O. 12549.


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Copies of these documents are available at K:\05_Grants\Federal Purchase Requirements

There are six grant circulars for the Federal Government. An agency is only covered by three of them. Educational Institutions, even if they are a part of a State or local government, follow A-21 for cost principles, Relocated to 2 CFR, Part 220 (30 pages, 384 kb), A-110 for administrative requirements, Relocated to 2 CFR, Part 215 (18 pages, 280 kb), and A-133 for audit requirements