PROCUREMENT PRACTICES

Understand basic procurement principles

Although your state or district will impose rules regarding how you spend your funds, there are basic principles set forth in EDGAR and OMB circulars that apply whenever you use federal funds to purchase goods or services. Below is a top 10 list of principles you must understand about procurement.

TOP 10 PRINCIPLES

1. All purchases with federal funds must be necessary for the performance or administration of the federal grant. Therefore, whenever districts make a purchase using federal funds, they must review the request to ensure that the purchase is necessary and not duplicative.

2. Districts must ensure that they obtain the most economical terms available. Costs always must be reasonable, which is defined as a fair market value in an arms-length transaction, acting with prudence under the circumstances.

3. Districts must perform a cost analysis whenever they make a purchasing decision regarding a unique service or award a contract to build something from scratch. A cost analysis requires districts to examine every element of the total cost, including profit. Districts must perform a price analysis (an evaluation of the total price) of all commonly available products.

4. The method and degree of the required analysis will depend on the particular facts and circumstances. The role of the cost or price analysis is to determine the reasonable price for the goods or services districts seek and to make an independent estimate prior to receiving bids or proposals.

5. Districts must avoid situations that restrict competition among bidders. The following examples may indicate inappropriate restrictions on competition:

- Unusual or unreasonable restrictions on vendors to qualify to do business with the district, including unnecessary experience or excessive bonding requirements.
- Noncompetitive pricing practices or awards to consultants on retainer.
- Organizational conflicts of interest.
- Specifying a brand name.

6. Districts must have procedures regarding:

- Small purchase procedures.
- Competitive sealed bids.
- Competitive proposals.
- Noncompetitive proposals.

7. Small purchase procedures are simple and relatively informal, but districts must always obtain a price or quote from an adequate number of sources to determine the fair market value.

8. Competitive sealed bids are appropriate when a complete description of the service or item is available. The opportunity to bid must be publicized; districts must offer adequate time to respond. Bids must be opened publicly at a time and place that is specified in the bid advertisement. Districts must award a firm fixed price contract to lowest responsive and responsible bidder. If any bidder is judged nonresponsive or irresponsible, it may be rejected.

9. Competitive proposals are more appropriate when it is not feasible for districts to draft clear specifications of the goods or services they require. It is usually not feasible to award these contracts based primarily on price. Even so, districts must disclose the method for evaluating the proposals and the relative importance of the various factors they consider. Districts must obtain proposals from an adequate number of sources.

10. Noncompetitive proposals are appropriate when:

- There is only a single source for the goods or services required.
- There is a public emergency.
- After soliciting a number of sources, there is inadequate competition for the contract, if the SEA agrees.

But it is critical to document each element of the process that led to the decision if districts proceed on the basis of noncompetitive proposals. ■