

Requirements and Restrictions for Procurement Under a Federal Award

The following shall be required in the case of procurement under a federal grant to ensure adequate competition.

Geographical Preferences Prohibited

The District shall conduct procurements 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 and 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.

Buy American and School Meals

When making purchases for the District’s school lunch program, the District shall, to the maximum extent practicable, purchase domestic commodities or products.

For the purposes of this procedure, “domestic commodity or product” shall mean:

1. An agricultural commodity that is produced in the United States; and
2. A food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

Additionally, the District shall require school meal program suppliers to attest that their final food products are either 100% domestic commodities or a food product containing over 51% domestic food components, by weight or volume.

Exceptions to this Buy American requirement may be made when the District determines that:

1. The food or food product is not produced or manufactured in the United States in sufficient or reasonably available quantities of a satisfactory quality; or
2. Competitive bids reveal the cost of a United States food or food product is significantly higher than the non-domestic product.

When such an exception is made, the Superintendent or his or her designee shall document such exceptions.

Prequalified Lists

The District shall ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the District shall not preclude potential bidders from qualifying during the solicitation period.

Solicitation Language

The District shall ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible.

When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers shall be clearly stated; and identify all requirements which the offers must fulfill and all other factors to be used in evaluating bids or proposals.

Contracting with Small and Minority Businesses and Women’s Business Enterprises

When soliciting goods and services on projects that will use federal funds, the District shall comply with the following requirements for the purpose of ensuring small business, minority owned businesses and women’s business enterprises are to be used whenever possible:

1. Place qualified small and minority businesses and women’s business enterprises on its solicitation lists;
2. Assure that small and minority businesses, and women’s business enterprises are solicited and notified whenever they are potential sources of the needed goods or services;
3. Divide the total requirements of a project, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
4. Establish reasonable delivery schedules, where the project requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises;
5. Consult the services, assistance, and information, as appropriate, of qualified organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

6. Require a project's prime contractor, if subcontracts are to be let, to take the affirmative steps listed in the numbered list above.

Legal References: 2 C.F.R. 200.319 Competition.

2 C.F.R. 200.321 Contracts – Minorities, Women and Small Businesses.

7CFR 210.21(d) Buy American Statement - Exceptions and instructions

Procedure History:

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