



BOARD POLICY

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## Equipment Purchasing Policy for Federal Grants

### Pratt Community College

**Equipment Defined: Information derived from:** 78612, 78614, & 78617, *Federal Register, Vol. 78, No. 248/Thursday, Dec. 26, 2013/Rules and Regulations*

#### **§200.33 Equipment.**

Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000. See also §§200.12 Capital assets, 200.20 Computing devices, 200.48 General purpose equipment, 200.58 Information technology systems, 200.89 Special purpose equipment, and 200.94 Supplies.

#### **§200.48 General purpose equipment.**

General purpose equipment is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

#### **§200.89 Special purpose equipment.**

Special purpose equipment is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

#### **§200.94 Supplies.**

All tangible personal property other than those described in §200.33 Equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life.

#### **§200.320(a) Sealed Bids.**

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 to 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) The invitation for bids will be publicly advertised and 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;
- (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 publicly opened at the time and place prescribed in the invitation for bids;
- (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 cost 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.
- (vi) 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 will 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 will be solicited from an adequate number of qualified sources;
  - (3) PCC will have written method for conducting technical evaluations of the proposals received and for selecting recipients;
  - (4) Contracts will be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
  - (5) PCC 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 effort.
- (6) 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:

- (i) The item is available only from a single source;
- (ii) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (iii) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (iv) After solicitation of a number of sources, competition is determined inadequate.

### **Sole Source/Single source Procurement**

In cases where there is no practical value in soliciting competition for materials or equipment and where only one source is available, it is possible to make the purchase without formal bidding. Purchasing will evaluate each request and make a determination whether a sole source acquisition is appropriate. To initiate the process:

Sole/Single-source procurements will be justified in sufficient detail to explain the basis for suspending the usual competitive procurement process. Sole/Single-source procurements will require board approval prior to purchase, if no prior resolution authorizing the purchase of the goods/services exists.

Because a product has unique upgrades or features does not mean they are necessary for the scope of the project. One court has observed that the uniqueness of the product goes to the functionality of the equipment, not the “really nice extra features” aspect of the product. Careful distinction must be used when determining between “sole source” and “sole product.” If only one PRODUCT will do the job, but that product is available from different vendors, a “sole source” acquisition is not appropriate.

### **Single Source-Defined**

Single Source is procurement will be followed when, although two or more vendors supply the commodities or services, the department selects one for substantial reasons, eliminating the competitive bidding process. ‘Single’ means ‘the one among others’.

### **Sole Source-Defined**

Sole Source is procurement in which only one vendor is capable of supplying the commodity or service. This may occur when the goods or services are specialized or unique in character. Written justification will be provided. ‘Sole’ means ‘the one and only’.

### **Sole Source Justification Letter**

Submit a sole source justification letter to Purchasing Services that includes:

1. A product description, including quantity and technical features.
2. History of prior purchases and their nature (competitive vs. noncompetitive)
3. Statement as to the unique circumstances that require award by noncompetitive bid/proposal.

4. An explanation of why the product is unique, if applicable: either (a) The product has special technical qualities, essential to the proposed use/function, and no acceptable substitutes are available from another supplier/manufacturer; or (b) The product is a replacement or auxiliary part to match existing specialized equipment with unique physical design and quality requirements serving a particular function/use.
5. Proof of no known equal, including a description of attempts to find an equal from other vendors and verification/information of only one available source.
6. An explanation that the purchase price is reasonable: (a) Attach documents that prove that the manufacturer offers the best price available because a purchase from a distributor includes the distributor's mark-up. (b) Attach a written certification letter from the vendor that its sales price is the best price it offers to any similarly situated educational or non-profit customer.
7. Description of the efforts made to find competitive sources.
8. Statement as to the efforts that will be taken in the future to promote competition for the requirement.
9. Letter must be signed/approved by Dean/Director and Vice President. Once your letter has been received, then your sole source request may have to go before the board for approval.

**Equipment Purchases Require:**

- The award will be made on the basis of price and other price-related factors;
- If low price is not selected, just reasoning explaining the rationale behind the selection;
- Competitive quotations detailing: like, kind, and quality merchandise from separate vendors (minimum of three);
- If three competitive quotes are not available, documentation as to why the normal procurement process was not followed;
- Presidential approval prior to processing purchase;
- Board of Trustees or applicable supervising agency approval prior to processing purchase;
- If sealed bids are issued, there is at least a ten day grace period granted while bids are being collected, before they are opened (in compliance with §200.320 (a));
- If sealed bids are issued, at least two institutional personnel, outside of the purchasing office need to be present at the opening of the sealed bids (in compliance with §200.320 (a)).

Revision Dates: