

Document Code No.: CON 7-8-2-EP

Title: Procurement Procedures Using Federal Funds

Affected Agencies: All departments, offices and agencies of King County government

Authorities: 2 CFR Part 200: 200.317-200.326, RCW 36.32.245, RCW 39.04.190, King County Code 2.93

Keywords: Administrative Policies and Procedures, Procurement, Contracts, Competitive Bidding, Federal

Sponsoring Agency: Department of Executive Services, Finance and Business Operations Division, Procurement & Payables Section

Type of Action: Supersedes CON 7-8 (AP), May 6, 1994



King County

Executive signature: 

Date signed and effective: 4/21/20

I. Purpose

This policy provides the requirement to comply with federal regulations and federal grant guidelines regarding the use of federal funds in purchase orders/contracts to County vendor/contractors.

II. Applicability and Audience

This policy applies to all King County offices, departments, officials, employees, boards, commissions, committees, or similar entities as well as contractors and grantees.

III. Definitions

“Debarred Vendor” means a firm and/or an individual debarred and/or a contractor excluded from providing goods and/or services for federal award programs which are listed in the GSA Office of Acquisition Policy.

“Federal Funds” means those federal grants, awards, or funds, provided to County agencies and/or subcontractors via federal indirect or direct awards.

“Suspended and Debarred List” means those individuals and/or firms excluded from providing goods and/or services for any federal programs.

“Covered Transaction” means a non-procurement or procurement transaction that is subject to the prohibitions outlined in Title 2, Code of Federal Regulations, Part 180.

IV. Background

In 2014, the Federal Government implemented Uniform Guidance, also known as 2 CFR 200, which governs applying for, obtaining, sub-awarding, spending, monitoring and reporting of Federal Financial Assistance. This policy addresses the following procurement requirements for the use of Federal Funds:

- Established thresholds for spending federal dollars – 2 CFR 200.317-326
- Suspension and Debarment of Suppliers and sub grantees – 2 CFR 180
- The Davis-Bacon Act in regard to Prevailing wages – 40 USC 3141-3144, 3146 and 3147

- Additional information regarding the use of federal funds can be found under Policies, Orders and Public Rules under FIN 16-1: Accounting, Reporting and Management of Grants and Other Financial Assistance.

V. Policy

A. Procurement thresholds if using Federal Dollars

1. County agencies (Grantee and/or Subgrantee Agency) using federal funds to obtain goods or services will do so in compliance with federal grant guidelines and federal regulations. When applying thresholds to purchases made with federal funds, the more restrictive threshold (Federal, State or King County) *applies*.

- a. Micro-purchase – Refer to Office of Management and Budget (OMB) Memorandum for Chief Financial Officers and Heads of Small Executive Agencies M-18-18. This threshold applies to supplies or services (aggregate amount). To the extent practicable, King County agencies must distribute micro-purchases equitably among qualified suppliers. Micro purchases may be awarded without soliciting competitive quotations if the acquiring King County agency considers the price to be reasonable. This limit is established in 48 CFR Part 2.1 (Definitions) and is periodically adjusted for inflation.
- b. Small Purchase/ 3 Quote Purchase - Refer to OMB Memorandum M-18-18. This threshold applies to services, supplies or other property. The procurement will require price or rate quotations.

When the County's threshold for this procurement method is lower, the County threshold shall be used for small/three quote purchases.

- c. Sealed Bids - Refer to OMB Memorandum M-18-18. This threshold applies to services, supplies or other property as appropriate. The procurement uses a formal solicitation process with a firm fixed price contract awarded to responsive bidder.

When the County's threshold for this procurement method is lower, the County threshold shall be used for this process.

- d. Competitive Proposals for Services- Refer to OMB Memorandum M-18-18. This threshold applies when sealed bids are not appropriate, where price must be considered as a factor. This procurement process must have more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded.

When the County's threshold for this procurement method is lower, the County threshold shall be used for this process.

- e. Competitive Proposals for Architectural/Engineering (A/E) Services- No dollar threshold. A/E services are to be procured through a

qualifications-based competitive proposal process where price is not a factor in determining award. This procurement method must have more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract awarded.

- f. Sealed Bids for Construction - In accordance with the Davis-Bacon and Related Acts (40 U.S.C. 3141-3144, and 3146-3148), contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal contracts.

In Washington State, public works projects are subject to state prevailing wages set by the Department of Labor and Industries (L & I). The higher of the two rates (state/federal) must be paid for each worker classification.

2. Non-Competitive Proposals

- a. The procurement process is found to be non-competitive for small purchases, sealed bids, competitive proposals for services, and competitive proposals for A/E when there is only one source.
- b. Waiver utilizing **federal funds** must meet one or more of the following criteria, according to 2 CFR 200.320 (f):
 - 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 King County.
 - iv. After solicitation of a number of sources, competition is determined inadequate.

B. Use of Federal Funds

1. County agencies awarded federal assistance shall ensure that their sub-grantees and subcontractors obtain goods and/or services with federal funds only in compliance with federal regulations.
2. County agencies utilizing Procurement & Payables (P&P) to obtain goods and/or services with federal funding shall inform P&P that federal funds will be used for the acquisition.
3. County agencies shall not procure goods or services from federally suspended or debarred vendors when using federal funds.

4. County agencies must abide by the procurement standards noted in 2 CFR 200 Sections 317- 324.

C. Suspension and Debarment

1. The federal government requires grant recipients to ensure they are not providing federal funds to organizations that are suspended or debarred. King County must evaluate procurements over \$25,000 or on sub-awards under a pass-through/sub-recipient relationship of any dollar amount to ensure they are meeting compliance with this requirement.
2. Before entering into a covered transaction, county agencies must verify that the party involved is not excluded or disqualified by performing one of these procedures:
 - a. Search the Suspended and Debarred status of an agency by reviewing their SAM information at <https://www.sam.gov/SAM/> and document findings, and
 - b. Collect a certification from that person, or
 - c. Add a clause or condition to the covered transaction with that person.

VI. Implementation Plan

- A. This policy became effective January 1, 2019. Uniform Guidance became effective for county agencies the fiscal year after it was adopted on December 26, 2014. A portion of the Uniform Guidance implementation was deferred as the federal government gave agencies an additional three fiscal years to adopt the procurement standards in 2 CFR 200.317-326. The Finance and Business Operations Division (FBOD) is responsible for implementation of this policy.
- B. FBOD is responsible for communicating this policy to the management structure within their respective agencies and other appropriate parties.

VII. Maintenance

- A. This policy will be maintained by FBOD, or its successor agency.
- B. This policy will automatically expire five (5) years after its effective date. A new, revised, or renewed policy will be initiated by FBOD, or its successor agency prior to the expiration date.

VIII. Consequences for Noncompliance

If grantee agency has been found by an auditing authority to be in violation of federal procurement policies, the federal granting authority may no longer grant funds, to that agency and the agency may have to pay back all disallowed costs.

Appendices: Procurement Guidelines for Federal Spending

Method	Applies To	Involves	Federal Threshold	King County Threshold
(a) Micro/Small Purchase	Supplies or Services	No competitive, if price considered reasonable. Equitably distributed.	\$10,000 or less (\$2,000 PW) Chart	Less than \$10,000
(b) Small Purchases/ 3 Quote Purchase	Services, Supplies or Other Property	Price or Rate Quotations	Under \$250,000	Less than \$50,000
(c) Sealed Bids	Services, Supplies or Other Property as appropriate	Formal solicitation with a firm-fixed price contract awarded to a responsive bidder	\$250,000 or more	\$50,000 or more
(d) Competitive Proposals – Services	When sealed bids are not appropriate (price must be a factor)	More than one source submits an offer, and either a fixed price or cost-reimbursement type contract is awarded	\$250,000 or more	\$50,000 or more
(e) Competitive Proposals – A & E	Architecture & Engineering (price not a factor)	More than one source submits an offer, and either a fixed price or cost-reimbursement type contract is awarded	No Threshold	
(f) Non-Competitive Proposals	Proposal from only one source if the following apply: sole/only source (RARE), emergency, authorized by awarding agency or inadequate competition.	Clear documentation that requirements are met and possibly obtain awarding agency approval.	(b) thru (d) above	

Note: Under 2 CFR 200, agencies are required to use the more restrictive threshold when spending federal funds.