

Procurement Standards for U.S. Environmental Protection Agency Federal Awards

Codes of Conduct

No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by U.S. Environmental Protection Agency (EPA) funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of NACWA shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements. Disciplinary action will be taken against officers, employees, or agents of NACWA who violate the above standards.

Competition

Procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Requests for Proposals (RFPs) shall clearly set forth all requirements that the respondent must fulfill. Awards will be made to the respondent whose proposal is responsive to the solicitation and is most advantageous to NACWA, price, quality, and other factors considered.

Procedures

All dollars that will be contracted must be listed as such in the Federal award proposal and agreed to by the EPA project manager.

All RFPs must include a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such a description shall not contain features that unduly restrict competition.

All RFPs must contain language encouraging contractors/subcontractors to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible.

Contracts shall be made only with responsible contractors who possess the ability to perform successfully. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. NACWA will not contract with any contractor debarred or suspended by the EPA.

Cost/price analysis of RFPs shall be made and documented in the procurement files in connection with every procurement action. This must include: Basis for contractor selection; justification for lack of competition when competitive bids are not obtained; and basis for award cost or price. This also

must contain rate/price comparisons to determine cost reasonableness and the review and evaluation of each element of cost to determine allocability and allowability.

NACWA shall, on request, make available for EPA, pre-award review and procurement documents, such as RFPs, price analysis, and other selection documentation.

Contract Provisions

All contracts/subcontracts must contain the following:

- 1) Contractual provisions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions, as may be appropriate
- 2) Suitable provisions for termination of the contract by NACWA, including the manner by which termination shall be effected and the basis for settlement as well as the conditions under which the contract may be terminated for default as well as circumstances beyond the control of the contractor.
- 3) Language stating that: "NACWA, the EPA, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to this project for the purpose of making audits, examinations, excerpts and transcriptions."
- 4) Language stating that: "The contractor shall use best efforts to ensure that fifteen percent (15%) of the total contract shall be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals within the meaning of Section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637 (a) (5) and (6). Such business entities may participate as subcontractors, or procurers of supplies, equipment, or services."
- 5) Language stating that: "The contract is funded under an award that NACWA has with the Environmental Protection Agency. The contractor and its subcontractors must follow the government audit guidelines related to A-133 and the procurement provisions of the appendix to Circular A-110, as applicable."
- 6) Language stating that: "The contractor will comply with Executive Order 11246, *Equal Employment Opportunity*, as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and as supplemented by regulations at 41 CFR Part 60, *Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor*."
- 7) For contracts awarded over \$100,000, language stating that "The Contractor agrees 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 Regional Office of the Environmental Protection Agency (EPA)."

- 8) EPA and recipients shall comply with the nonprocurement debarment and suspension regulations in 2 CFR part 1532 implementing Executive Orders 12549 and 12689, "Debarment and Suspension." 2 CFR part 1532 restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.
- 9) For contracts awarded over \$100,000, NACWA must receive certification from the contractor that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining this contract. The contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining this contract. (*Byrd Anti-Lobbying Amendment*)