

Institute for Medical Research, Inc.	Procurement Policy for Federal Projects	No. 707	
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Purpose

This policy details procedures of the Institute for Medical Research, Inc. to make simplified acquisitions and contractors to operate until both the General procurements standard (2 CFR § 200.318) and Office of Management and Budget Governmentwide Guidance for Grants and Agreements (Uniform Guidance), Code of Federal Regulations; 2 CFR § 200.67 and 2 CFR § 200.88 when making purchase of goods and services using federal awards.

General Procurement Standards

IMR documented procedures for procurement adhere to state and local laws and regulations and conform to the applicable Federal laws and standards identified in 2 CFR Parts § 200.317 through § 200.326.

IMR policy on Conflict of Interest provides standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real, perceived or potential conflict of interest. Violations of such standards are subject to disciplinary actions provided in the Conflict of Interest Policy.

IMR's procurement procedures will avoid acquisition of unnecessary or duplicative items and promote cost-effective use of shared services by entering into state and local intergovernmental agreements for procurement or use of common or shared goods and services where appropriate. IMR will use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

IMR will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as:

- Contractor integrity,
- Compliance with public policy,
- Record of past performance, and
- Financial and technical resources.

IMR will maintain records sufficient to detail the history of procurement. These records will include, but are not limited to:

- Rationale for the method of procurement
- Selection of contract type,
- Basis for contractor selection or rejection, and
- The basis for the contract price.

Time and materials contracts - *For major construction only; 2 CFR § 200.318(j)*

IMR may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. IMR will be responsible for the settlement of all contractual and administrative issues arising out of procurement. These issues include, but are not limited to:

- Source evaluation,
- Protests,
- Disputes, and Claims.

Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards provided in section 2 CFR § 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work or invitations for bids or requests for proposals must be excluded from competing for such procurements. IMR procurement transactions will contain no requirements that unduly restrict competition as specified in CFR § 200.319(a) and (b).

IMR procurement procedures will ensure that all solicitations: A) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured in a manner that does not unduly restrict competition; and B) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

IMR will 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 completion. IMR will not preclude potential bidders from qualifying during the solicitation period.

Methods of Procurement (2 CFR § 200.320)

IMR may use one of the following methods of procurement:

Micro-purchases (purchases of \$1 - \$10,000): Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount per transaction which does not exceed the micro-purchase threshold. To the extent practicable, IMR will distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if IMR considers the price to be reasonable.

Simplified Acquisitions (purchases of \$10,001 - \$250,000): Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (as of the publication of 2 CFR § Part 200, the Simplified Acquisition Threshold is \$250,000 but is periodically adjusted for inflation.) If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

Competitive Proposals (purchases of \$250,001 – and above): 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:

- Proposals must be solicited from an adequate number of qualified sources.
- IMR will follow its written method for conducting technical evaluations of the proposals received and for selecting recipients;
- Contracts will be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and IMR 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 the proposed effort.

Sealed Bids (Formal advertising) (purchases of \$250,001 – and above):

Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with 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 following conditions apply. A complete, adequate, and realistic specification or purchase description is available;

- Two or more responsible bidders are willing and able to compete effectively for the business; and
- 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.
- If sealed bids are used, the following requirements apply:
- 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 for state, local and tribal governments, the invitation for bids must be publicly advertised; 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; All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- 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 costs 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
- Any or all bids may be rejected if there is a sound documented reason. Purchases over \$250,000 must be approved by the Board of Directors.

Noncompetitive Proposals (Sole Source): 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:

- The item is available only from a single source; or
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; or
- The Federal awarding agency or pass-through entity expressly authorizes noncompetitive

proposals in

- response to a written request from the non-Federal entity; or
- After solicitation of a number of sources, competition is determined inadequate.

Purchases of services of over \$250,000 must be approved by the Board of Directors.

Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms (2 CFR § 200.321)

IMR will take necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus firms are used when possible.

Contract Cost and Price (2 CFR § 200.323)

IMR will perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, IMR will make independent estimates before receiving bids or proposals.

Where applicable, IMR will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for IMR under Subpart E – Cost Principles-of the Uniform Administrative Guidance 2 CFR Part 200. IMR may reference its own cost principles that comply with the Federal cost principles. The cost plus a percentage of cost and percentage of construction cost methods of contracting are not allowable.

Procurement Review (2 CFR § 200.324)

IMR will make available, upon request by the Federal awarding agency or pass-through entity, technical specifications on proposal, when there is believe such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

IMR will make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates when the circumstances detailed in 200.323(b) apply. IMR is exempt from the pre-procurement review if the Federal awarding agency or pass-through entity determines that its procurement systems comply with this part.

IMR may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

IMR may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from IMR that it is complying with these standards. IMR must cite specific policies, regulations, or standards as being in compliance with these requirements and have its system available for review.

Bonding Requirements (2 CFR §200.325)

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the requirements of 200.325(a) – (c) must be followed.

Contract Provisions (2 CFR § 200.326)

IMR's contracts must contain the applicable provisions described in Appendix II to Part 200 – "Contract Provisions for non-Federal Entity Contracts Under Federal Awards".

Subrecipient and Contractor Determinations (2 CFR § 200.330)

IMR will make a case-by-case determination whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor (see Subrecipient and Contractor in the Definitions section of this policy).

In determining whether an agreement between IMR and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of agreement. IMR will use judgment in classifying each agreement as a subaward or a procurement contract.

Suspension and Debarment

Non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

IMR will make no awards to any non-federal entity and contractor who has been suspended or debarred. It will use its access to the SAM electronic roster system¹ and any other applicable sites to determine the entity or contractors status before making an award.

¹ The SAM system combines data from the Central Contractor Registration, Federal Register, Online Representations and Certification Applications, and the Excluded Parties List System.

APPENDIX 1 - DEFINITIONS

Contract (2 CFR § 200.22): A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

Contractor (2 CFR § 200.23): An entity that receives a contract as defined in “Contract”, above.
(2 CFR § 200.330(b)): A contract is for the purpose of obtaining goods and services for the non-Federal entity’s own use and creates a procurement relationship with the contractor (see 200.22 Contract). Characteristics indicative of a procurement contract relationship between the non-Federal entity and a contractor include when the non-Federal entity receiving the Federal funds:

Provides the goods and services within normal business operations;
Provides similar goods or services to many different purchasers;
Normally operates in a competitive environment;
Provides goods or services that are ancillary to the operation of the Federal program; and
Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Cooperative Agreement (2 CFR § 200.24): A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302- 6305:

Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States and not to acquire property or services for the Federal government or pass-through entity’s direct benefit or use;

Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

Federal Award (2 CFR § 200.38): Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

(a)(1): The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.

(a)(2): The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity.

(b): The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance in paragraph (b) of 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

(c): Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned contractor operated facilities (GOCOs).

(d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Federal Awarding Agency (2 CFR § 200.37): The Federal agency that provides a Federal Award directly to a non-Federal entity.

Federal Financial Assistance (2 CFR § 200.40): For grants and cooperative agreements, assistance that non-Federal entities receive or administer in the form of:

- Grants;
- Cooperative agreements;
- Non-cash contributions or donations of property (including donated surplus property);
- Direct appropriations; and Other financial assistance.

Fixed Amount Awards (2 CFR § 200.45): A type of grant agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award.

Grant Agreement (2 CFR § 200.51): A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use:

Is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

Micro-Purchase (2 CFR § 200.67): A purchase of supplies or services using the simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a non-Federal entity's small purchase procedures. The non-Federal entity uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and costs. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is \$3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.

Non-Federal Entity (2 CFR § 2900): A state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Pass-through Entity (2 CFR § 200.74): A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Proposal Costs (CFR § 200.460): The costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the non-Federal entity's bids or proposals.

Simplified Acquisition Threshold (2 CFR § 200.88): The dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation.

Subaward (2 CFR § 200.92): An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient (2 CFR § 200.93): A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

2 CFR § 200.330(a): A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient, characteristics of which support the classification of the non-Federal entity as a subrecipient and include when the non-Federal entity:

- Determines who is eligible to receive what Federal assistance;
- Has its performance measured in relation to whether objectives of a Federal program are met;
- Has responsibility for programmatic decision making;
- Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and

In accordance with its agreement, uses the Federal funds to carry out program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.