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BONDING REQUIREMENTS

The awarding agency determines if an entity's bonding requirements are adequate. The minimum requirements for construction contracts or subcontracts exceeding SAT shall be bid equivalent to five percent of the bid price and any performance or payment bonds shall be for 100 percent of the contract price.



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CONTRACT PROVISIONS

Contracts and subcontracts must contain provisions including the following: remedies; termination for cause and convenience; Equal Employment Opportunity; compliance with the Copeland Anti-Kickback Act, Davis-Bacon Act, the Safety Standards Act, the Clean Air and Clean Water Acts, and the Energy Policy and Conservation Act; reporting; patent rights; copyrights and rights in data; and complete access and retention of records. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses.

For more information about preserving Public Assistance funding, contact the California Governor's Office of Emergency Services at:

3650 Schriever Avenue
Mather, CA 95655
(916) 845-8200
(916) 845-8388 (fax)
DisasterRecovery@caloes.ca.gov
www.caloes.ca.gov

Obtain further program information for protecting your Public Assistance disaster funding from the Federal Emergency Management Agency at:

www.fema.gov/public-assistance-frequently-asked-questions

For minimizing the loss of program funding through audits, contact the Office of Inspector General at:

http://www.oig.dhs.gov/assets/Audit_Tips.pdf

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Eight Procurement Principles for El Niño Damage

Contracts
and
Procurement



- Procurement Standards
- Competition
- Procurement Methods
- Socioeconomic Contracting
- Contract Costs & Price
- Awarding Agency Review
- Bonding Requirements
- Contract Provisions



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PROCUREMENT STANDARDS

A non-Federal entity must utilize its own documented procedures, which reflect applicable Federal, State, local, and tribal laws, regulations, and standards. The entity must also maintain a contract administration system ensuring performance of contracts or purchase orders; maintain written standards of conduct governing the performance of contracts; award only responsible contractors with the ability to perform successfully under the terms and conditions of the proposed procurement; and maintain accurate procurement records.

2

COMPETITION

Competitive bidding eliminates non-competitive pricing between firms and noncompetitive awards to consultants on retainer; removes conflicts of interest and the specifying of “brand name” products; or any arbitrary actions. Competition prohibits in-State or local preferences and requires written procedures for procurement transactions utilized in evaluating bids. Entities may use prequalified lists of firms; however, must ensure the list is current and includes sufficient qualified sources for competition. Bidders are allowed to qualify during the solicitation period.

3

PROCUREMENT METHODS

Entities may utilize small purchase procedures under the Simplified Acquisition Threshold (SAT) with quotes from at least three sources. They may procure using firm-fixed price and publicly solicited sealed bids. Requests for competitive proposals must be publicized and solicited from an adequate number of sources so technical evaluations can be conducted and contracts awarded to the firm whose proposal is most advantageous. Noncompetitive procurements may be used **only** when full and open competition is not feasible.

PROCUREMENT

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SOCIOECONOMIC CONTRACTING

Entities must take necessary affirmative action steps to ensure small, minority, women-owned, and labor surplus area firms are used by inclusion on solicitation lists. Entities must solicit such firms whenever they are potential sources, and should divide requirements when economically viable and divide delivery schedules when feasible. They must also utilize the services and assistance of organizations such as the U.S. Small Business Administration and the Minority Business Development Agency and require prime contractors to practice these steps.

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CONTRACT COSTS & PRICE

Entities should perform a cost/price analysis for procurements that may be modifications. Profit should be negotiated as a separate price element for contracts with no price competition and whenever cost analysis is performed. To establish fair and reasonable profit, consider complexity, risk, contractor’s investment, amount of subcontracting, history of performance, and industry profit rate in the local area for like work. Ensure costs and prices are based on estimates and are consistent with Federal cost principles. Entities must not use “cost plus” contracts.

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AWARDING AGENCY REVIEW

The awarding agency provides technical specifications on proposed procurements and makes available pre-award review documents when procurement fails to comply with applicable Federal procurement standards or is expected to exceed the SAT. This can further occur whenever a contract is to be awarded noncompetitively, when the entity received only one bid, or a contract includes a specified a “brand name” product, an award is made to a firm other than low bidder under a sealed bid, or a proposed contract modification changes scope of contract or increases contract amount by more than SAT.