

Procuring Goods and Services Using Federal Funds

The guidance presented below in a question and answer format was developed by the California Department of Technology (CDT) to assist recipients that will require contractual services in order to complete their proposed activities under California Digital Equity Program (CalDEP).

Q. When is it appropriate to utilize a contractor/consultant?

A. Recipients may contract for services that cannot be provided by staff employed by their organization. Generally, these services are for a short-term period and provide a specific and identifiable product or service. If awarded funds, recipients are responsible for ensuring their contractors/consultants comply with applicable federal regulations and requirements. Contracting out must not affect a recipient's overall responsibility for the management of the project, and the recipient must reserve sufficient rights and control to enable it to fulfill its responsibilities for the project.

Q. Are recipients required to have a procurement policy?

A. At a minimum, recipients must establish and follow a documented procurement policy which conforms to applicable federal law and reflects applicable state, local, and tribal laws and regulations. Reference [2 CFR 200.317 – 200.327](#) for additional information on general procurement standards.

Q. What methods of procurement are available to recipients?

A. Recipients must use one of the following procurement methods for contractual services:

- Procurement by micro-purchase: Purchases of supplies or services at or below the micro-purchase threshold (currently \$10,000) may be done without soliciting competitive bids, so long as the applicant believes the cost to be reasonable.
- Procurement by small purchase procedures: Relatively simple and informal procurement methods may be used for securing services,

supplies, or other property that do not cost more than the Simplified Acquisition Threshold (currently \$250,000). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

- Procurement by competitive proposals: This method requires publicizing a request for proposals and usually occurs with more than one source submitting an offer. When using procurement by competitive proposals, applicants must have a written method for evaluating proposals and are required to select the proposal that is most advantageous to the program, with price and other factors considered.
- Procurement by sealed bid: 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. This method of procurement is most common for construction and may be less common for recipients of CalDEP.
- Procurement by noncompetitive proposal: Also known as single source bidding, this practice is appropriate in very limited circumstances as described in [2 CFR 200.320 \(c\)](#).
- Regardless of the procurement method selected, recipients are required to conduct a cost or price analysis, including developing an estimate prior to soliciting bids, for any procurements in excess of the Simplified Acquisition Threshold.

Q. What are the common types of compensation for contractors?

A. Contractual services generally fall into one of three types:

- 1) Salaries and Wages: In this method of compensation, costs are based on the actual salary or hourly wage for the persons performing work under the contract. In addition to actual salaries, contracts may include charges for fringe benefits, travel, equipment, supplies, other costs, and indirect costs as described in [2 CFR 200.430](#).
- 2) Fees for Professional Services: In this method of compensation, an hourly rate is paid for services provided. The rate does not necessarily

reflect the actual salary of the person performing the contracted work and is typically inclusive of salary, fringe benefits, and overhead costs associated with the service provided.

- 3) Flat-Rate: In this method of compensation, a pre-determined rate is paid for services provided, rather than payment based on hours worked. If selecting a flat-rate contractor, the recipient must provide a justification for the flat-rate fee and demonstrate the rate is reasonable and consistent with fees in the marketplace for similar services. The inclusion of costs that would otherwise be unallowable within a flat-rate fee is prohibited.

Q. Are there any other factors to consider when selecting a contractor?

A. Recipients must take all necessary affirmative steps to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Reference [2 CFR 200.321](#) for additional information.

Q. When is prior approval from CDT required for contractual services?

A. Common examples when prior approval is required for recipients awarded CalDEP funds include:

- Selecting a contractor by noncompetitive proposal.
- Selecting a contractor with salaries and wages or fees for professional services that exceed \$100 per hour.
- Selecting a contractor that will utilize a flat rate fee structure.
- Selecting a contractor for services not already identified on the project application/scope of work.
- Changes in the fee structure of a previously approved contractor (e.g., changing from a flat rate fee structure to a fee for professional services).

Q. Are recipients allowed to utilize contractors/consultants selected before the CalDEP start date?

A. Recipients may utilize contractors/consultants selected before the CalDEP start date if the recipient followed their documented procurement policy which conforms to applicable federal law and reflects applicable state, local, and tribal laws and regulations.