

Selecting a Vendor or Independent Contractor Guidelines

Function:	Procurement/AP
Procedure	N/A
Contact:	Megan Moran

Guideline Recommendations

In order to comply with federal regulations as stated in Office of Management and Budget (OMB) Circular A-110, the Research Foundation (RF) has established guidelines for selecting suppliers of goods or services. The RF has elected to accept the grace period for implementing the new procurement standards in the OMB Uniform Guidance as codified in 2 CFR Part 200. This policy is in compliance with OMB Circular A-110. The new procurement standards will be implemented by the RF to be effective on July 1, 2018.

Refer to [A-110 Excerpts - Procurement Standards](#) for requirements related to the purchasing process.

Suppliers

For the purposes of this manual, a supplier can be either a vendor providing goods, or an independent contractor or subcontractor providing services.

Use of Routine Suppliers

For purchases under \$50,000, operating locations can select suppliers without using the criteria listed in the following block, although the pricing policies of these suppliers should be reviewed periodically to ensure they are competitive.

Guidelines

The guidelines for selecting a supplier include:

- Criteria indicated in the solicitation;
- Any location-specific guidelines created to assist in evaluating and selecting a supplier; and
- Criteria from A-110.

A-110 Criteria

The following criteria from A-110 should be reviewed when selecting a supplier:

- Conflict of interest;
- Credibility;
- Open and free competition;
- Single/sole source procurements; and
- Price and cost analysis.

Each A-110 criteria is described in the following blocks. Information on the use of small and minority-owned businesses is also provided.

Conflict of Interest

All transactions and activities related to purchasing goods or services from a supplier must conform to the Research Foundation [Conflict of Interest Policy](#).

Credibility

OMB Circular A-110, section .44 (d), states that "Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of Executive Orders 12549 and 12689, 'Debarment and Suspension'."

Sources for a Credibility Check

Operating locations may establish vendor records that contain supplier performance information. Credibility checks can also be performed through contacts with supplier references.

Certification of Credibility

Suppliers selected for purchases or services in excess of the small purchase threshold, 41 U.S.C. 403 (11) (currently \$100,000) on a federal project must certify to the Research Foundation that they are not debarred, suspended, ineligible, or voluntarily excluded from participating in federal non-procurement transactions. The vendor certification must be received prior to issuance of a purchase order or establishment of a commitment. Refer to "Certification Regarding Debarment, Suspension, and Other Responsibility Matters" on the RF website.

Operating locations can obtain information about excluded parties by subscribing to the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" or by searching for specific names or individuals on the list at the Acquisition Reform Network's Web site.

Subscription Information

Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402

(202) 512-1800

Open and Free Competition

OMB Circular A-110, section .43, requires that procurement transactions be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient should be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In addition, a supplier involved in the process of soliciting bids (e.g., drafting specifications) cannot compete for that procurement.

Solicitation of Bids and Proposals

The Research Foundation requires the solicitation of bids or proposals to ensure open and free competition. Refer to [RF Procurement Policy](#) for more information.

Single/Sole Source Procurements

Single Source

A single source procurement is a purchase from a supplier who is chosen without soliciting the minimum number of bids or proposals, despite the fact that competition exists, because of limiting circumstances (e.g., experience or service of the supplier, or product quality).

After completing the initial supplier selection for a particular requisition, an operating location can use the same supplier for repeat purchases as well as new purchases, if desired. For repeat purchases, the initial selection process justifies the use of the supplier. For new purchases, documentation explaining the use of the supplier should be retained in the procurement file. Additionally, the supplier must be periodically reviewed and documented in the purchasing file.

Sole Source

A sole source procurement is a purchase from the only available supplier of the product or service. Therefore, no bids or proposals can be obtained.

Price or Cost Analysis

Policy

OMB Circular A-110, section .45, requires that some form of price or cost analysis be made and documented in the procurement file. The Research Foundation has established a policy requiring that a cost or price analysis be performed and documented for purchases of \$50,000 or more.

Note: Although not required by RF policy, price or cost analysis is also appropriate for purchases under \$50,000. Either way, the pricing policies of suppliers used for procurements within this range should be reviewed periodically to ensure they are competitive and the results maintained in a supplier procurement file.

Price or Cost Analysis Objective

The objective of analyzing prices and costs is to determine whether the price is equitable and/or competitive in that it is reasonable in terms of the market, the industry, and the end use of the goods or services purchased. Other factors such as quality, service, and delivery of required goods can be considered.

Additionally, an analysis should also be made of lease alternatives, when appropriate, to determine whether leasing or buying is the most economical, practical procurement for the federal government (not necessarily for the recipient), as stated in A-110, section .44 (a)(2). Refer to the following two blocks for detailed descriptions of price analysis and cost analysis.

Price Analysis

Price analysis is the process by which a supplier's selling price for an item or service is evaluated by the buyer. It involves the comparison of a supplier's price quote with appropriate reference prices to determine whether the supplier's price is equitable and/or competitive. Price analysis can include, but is not limited to, a comparison of the current price quote with

- quotations submitted by different suppliers.
 - prices paid in the past for the same or similar items.
 - published price listings or catalogs, together with discount arrangements.
- If price analysis cannot be performed, locations must perform cost analysis (refer to the following block).

Cost Analysis

Cost analysis is the review and evaluation of each element of cost used by the supplier to arrive at the price at which goods or services are offered, in order to determine if these elements are equitable and/or competitive. These elements include, but are not limited to, labor costs, material costs, and indirect costs.

In cost analysis, costs are grouped into the following three categories:

- direct costs
- indirect costs
- supplier profit

The following table provides definitions of the three categories:

Category	Definition
Direct Costs	Costs associated with the direct material and labor used to produce the product.
Indirect Costs	All other expenses that cannot be related directly to the production of specific units.
Supplier Profit	The difference between the supplier's fully allocated (direct and indirect) costs of producing an item and its purchase price.

Process

Operating locations should obtain the cost breakdown from the supplier in order to perform a cost analysis. Operating locations should then apply their expertise and judgment to the data submitted to determine if the price is reasonable. If the costs are not reasonable, operating locations should negotiate a price that both the supplier and the operating location consider fair and reasonable.

Operating locations may contact the Finance Office for assistance in cost analysis.

Justification of Selection

An explanation of the selection criteria used for choosing a supplier should be retained in the procurement file. If the supplier that was chosen was not the lowest bidder, then the explanation should include the specific reason why that supplier was chosen. If the "Independent Contractor Services Form" is used, the selection criteria should be documented on this form.

Note: If a procurement exceeds the small purchase threshold, 41 U.S.C. 403 (11) (currently \$100,000) and is a single or sole source procurement, operating locations may be required to make purchasing documentation available at the request of sponsors.

Use of Small, Minority or Women-Owned Businesses

OMB Circular A-110, section .44, states that "positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible." (Refer to [A-110 Excerpts - Procurement Standards.](#)) The Research Foundation, in turn, encourages operating locations to use small and minority-owned businesses.

In addition, some sponsors require a minimum percent utilization of small, minority and women-owned businesses. Operating locations should check the award notice or sponsor guidelines for specific sponsor requirements to ensure compliance.

Note: Purchases up to \$200,000 from certified small, minority or women-owned businesses do not require three written quotes, but do require reasonableness of price.

Federal Acquisition Regulations (FAR)

The FAR outlines specific requirements that must be met when subcontracting with suppliers from labor surplus areas, small businesses, and small disadvantaged business concerns. Refer to 48 CFR1 for appropriate FAR text. The Federal Acquisition Regulation website is at <https://www.arnet.gov/far/>.

NYS Directory

The Governor's Office publishes a directory of New York State certified minority, women-owned, and/or disadvantaged businesses. To obtain this directory, operating locations should contact:

*NYS Department of Economic Development
Division of Minority and Women's Business
One Commerce Plaza*

Albany, N.Y. 12245

[New York Division of Minority-andWomen-Owned Businesses Directory](#)

Reports

The Minority Business Report, available through the computerized business system, should be used to monitor minority business activity.

Change History

Date	Summary of Change
December 29, 2016	Added verbiage in the "Background" section. Fixed broken links.
Unkown	New Document

Feedback

Was this document clear and easy to follow? Please send your feedback to webfeedback@rfsuny.org.

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