

Amherst College Procurement Policy

Purpose of Procurement

The following is the Amherst College Procurement Policy. Federal Regulations require that the policy be formal and in writing. Amherst College has previously relied on an informal set of procedures for the procurement of supplies and other expendable property, equipment, real property and other services purchased with Federal funds. This written policy now provides formal written documentation of that policy and is not seen as a change in policy or procedure. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders.

This procurement policy for Amherst College will be distributed to each Principal Investigator (PI) upon being awarded a grant. If there are any questions regarding this policy, please contact the Controller's Office.

Procurement Procedures

Amherst College employees should avoid purchasing any unnecessary items (example: was use of similar/alternative equipment already existing elsewhere on campus considered?).

Where appropriate, an analysis should be made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government.

Solicitations for goods and services provide for all of the following:

- (i) A clear and accurate description of the technical requirements for the material, product or service to be procured which does not contain features which unduly restrict competition.
- (ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.
- (iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
- (iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
- (v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
- (vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

Amherst College should make a positive effort to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. This includes ensuring that these entities are used to the fullest extent practicable; making information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by these entities; consider in the contract process whether firms competing for larger contracts intend to subcontract with these entities; consider contracting with consortiums

of these entities when a contract is too large for one of these firms to handle individually; and the use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of these entities.

The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase order, and incentive contracts) shall be determined by Amherst College but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.

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 E.O.s 12549 and 12689, "Debarment and Suspension".

Cost and pricing analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts.

For contracts over the small purchase threshold of \$25,000 the following provisions should be followed:

- (1) Basis for contractor selection
- (2) Justification for lack of competition when competitive bids or offers are not obtained
- (3) Basis for award cost or price

Contract Administration

Amherst College shall evaluate contractor conformance with the terms, conditions and specifications of the contract to ensure adequate and timely follow up of all purchases and document whether contractors have met the terms, conditions and specifications of the contract.

Contract Provisions

When entering into a contract or subcontract Amherst College shall include provisions to define a sound and complete agreement. The following provisions will also apply:

- (i) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions 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.
- (ii) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination, including the manner by which termination shall be affected and the basis for settlement. The contract will also state under which conditions the contract may be terminated for default as well as conditions where it may be terminated because of circumstances beyond the control of the contractor.

(iii) Except as otherwise required by statute, an award that requires the contracting/subcontracting for construction of facility improvements shall follow Amherst College's requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract/subcontract exceeds \$100,000. The Federal awarding agency may accept the policy/requirements of Amherst College in contracts exceeding \$100,000 if a determination has been made that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price.

(vi) Where bonds are required in the situations described, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

All negotiated contracts (over the small purchase threshold) awarded by Amherst College shall include a provision to the effect that the recipient, the Federal awarding agency, 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 the contract.

All contracts, including small purchases awarded by Amherst College and their contractors shall contain the procurement provisions of Appendix A of Circular A110; specifically, Equal Employment Opportunity, Copeland "Anti-Kickback" Act, Davis-Bacon Act, Contract Work Hours and Safety Standards Act, Clean Air Act, Federal Water Pollution Control Act, and Byrd Anti-Lobbying Amendment as applicable.

All procurement transactions shall be conducted to the maximum extent practical, open and free competition. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by Amherst College. Any and all bids or offers may be rejected when it is in Amherst College's interest to do so.

Expenditures made under grants and contracts must comply with all of the requirements of the grant or contract agency. PIs should familiarize themselves with these requirements in advance of any expenditure. All items purchased under grants and contracts are under the ownership or stewardship of Amherst College, which delegates responsibility for the care and operation of the equipment to the PI.