

## Getting Grants with Jerry Brant

### Understanding the new fire grant rules

Over the past year the Office of Management and Budget has been working with all federal agencies that administer grants, loans, contracts and other types of financial assistance with the implementation of Super Circular 2, or 2 CFR. It will streamline eight federal regulations into a single regulation, and all federal agencies must adhere to it by Dec. 26.

#### Related Article:

[7 changes for 2014 AFG fire grants](#)

To most fire and EMS agencies, the conflicting guidance given by current regulations has not really impacted your operations. However, to departments that receive funding from multiple federal agencies, this situation has been a record keeping and procurement nightmare.

The new 2 CFR will:

- Provide for consistent and transparent treatment of costs.
- Strengthen oversight.
- Target audit requirements on risk of waste, fraud and abuse.
- Eliminate conflicting guidance.
- Save the federal government approximately \$250 million annually.

2 CFR will apply to new awards and additional funding (funding increments) made after Dec. 26. Since we anticipate that AFG will open sometime in early November, the regulations established under 2 CFR will apply to awards made under the 2014 AFG program.

#### 3 key areas

In particular there are three areas of concern for departments receiving awards under AFG 2014.

First, all departments will be required to have a written procurement policy. At first, you will simply be required to acknowledge that you have a written policy by signing a form if you are awarded a grant.

If you are audited, you will be required to produce the form. In the future, there may be a question added to the AFG application asking if you have a written procurement policy, and you may be required to produce a copy of the policy when you are awarded your grant or at the time of close out.

The second major change has to do with the way your department contacts vendors for information for AFG requests. If you use a vendor or manufacturer to draw up specifications or similar documents for an item, your department cannot buy the item from that vendor if you are awarded a grant.

And third, it will be the responsibility of the grantee (your department) to ensure that the vendors, manufacturers, and even the grant writers that you contract with, are not debarred from doing business with the federal government.

#### Compliance tips

I know all of this can seem a little overwhelming, but don't panic because it isn't as complicated as it sounds. Here are some suggestions. If your department does not have a written procurement policy, you have several options.

- Write your own policy. However, keep in mind that your policy cannot be any less stringent than the federal policy.
- Adopt your local government's policy. For example your municipality, county or state. Again these policies must be in line with the federal policy.

- Adopt the federal procurement policy outlined in 2 CFR as the procurement policy for your department.

If you are trying to get price estimates for your AFG application, again there are several ways to handle this without violating the new regulations.

You can call a vendor or manufacturer and say, "Please give me a price for a specific number of new SCBA that meet NFPA 2013 with a specific size bottle and a spare. Do you expect any price increases in the next six months?"

This is completely legal, and if you are awarded grant funds you can buy from that vendor. What you cannot do is get specs from that vendor for new SCBA and then use those specs to get bids from other vendors.

#### **Vehicle specs**

With a vehicle, for example, you can ask a vendor or manufacturer for pricing of a new NFPA 1901 compliant vehicle with a (custom or commercial) chassis, two- or four-door cab, with a specific size pump and tank with CAFS, a generator and light tower. If you are awarded AFG funds for a vehicle, this vendor can participate in the bidding.

Again, you cannot obtain the specifications for this vehicle from the vendor or manufacturer, or have the sales representative assist with the creation of the specifications. If you publish specifications that were prepared, or had material involvement from the sales representative or manufacturer, they are not eligible to participate in the bid.

You can get technical specifications, prices and other product information from the Internet or a catalogue. You also can ask a local department that recently purchased a similar item to provide you with their specifications and final price.

The third requirement I mentioned earlier dealing with debarment maybe the easiest for department compliance. One of the benefits of registration in SAM is that it provides access to a list of all current individuals and companies debarred from doing business with the federal government.

Enter your SAM account and access the information from the list of excluded parties or conduct a record search by the vendor's name. If you violate any of the procurement regulations you may be forced to repay your grant to FEMA, face prosecution or both.

Here is a partial look at the new regulations. You can view the [complete document here](#).

#### **§200.318 General procurement standards**

(a) The non-federal entity must use its own documented procurement procedures, which reflect applicable state and local laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in this section.

#### **§200.319 Competition**

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business;
2. Requiring unnecessary experience and excessive bonding;
3. Noncompetitive pricing practices between firms or between affiliated companies;
4. Noncompetitive contracts to consultants that are on retainer contracts;
5. Organizational conflicts of interest;
6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
7. Any arbitrary action in the procurement process.

(b) The non-federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features, which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
2. Identify all requirements, which the offers must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-federal entity must 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 competition. Also, the non-federal entity must not preclude potential bidders from qualifying during the solicitation period

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