

REPORT TO CITY COUNCIL

DATE: JUNE 23, 2021
TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: NATHAN HAMBURGER, CITY MANAGER
BY: CHRISTY PINUELAS, DIRECTOR OF FINANCE
SUBJECT: AMEND THE POLICY FOR PROCUREMENT MADE WITH FEDERAL FUNDS

In May 2014, the City Council adopted a Financial Policy, which requires that each financial policy be updated every three years, reviewed by the Finance Subcommittee, and considered by the City Council for final approval. After review by the Finance Subcommittee and City Council at the June 9, 2021, Budget Workshop, the Policy for Procurement with Federal Funds was recommended to be updated.

The City of Agoura Hills adopted a Policy for Procurement with Federal Funds in June 2021 and is now updating it to adhere to the Uniform Guidance (UG). Organizations receiving federal funds are subject to the procurement guidelines of the UG, formally 2 C.F.R 200 *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. The policy outlines employee standards, contract inclusions, and types of procurement and its necessary steps for federal funds. The new updates include amended language for Equal Employment Opportunity, the inclusion of the Davis-Bacon Act requirements, the Byrd Anti-Lobbying Amendment and domestic preferences for federal procurements.

Included in this packet is the amended policy, which has been reviewed by the City Attorney.

RECOMMENDATION

Staff respectfully recommends the City Council amend the Policy for procurement with federal funds adopt Resolution No. 21-1976 amending the policy.

Attachments:

Resolution No. 21-1976
Policy for Procurement with Federal Funds

RESOLUTION NO. 21-1976

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
AGOURA HILLS, CALIFORNIA, AMENDING THE POLICY
FOR PROCUREMENT WITH FEDERAL FUNDS;
RESCINDING RESOLUTION 18-1870**

WHEREAS, organizations receiving federal funds are subject to the procurement guidelines of the Uniform Guidance (“Uniform Guidance”), formally *2 C.F.R. Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

WHEREAS, the City of Agoura Hills has prepared this Procurement Policy for Federal Funds in order to comply with the requirements of the Uniform Guidance.

WHEREAS, the City Council Finance Subcommittee and City Council reviewed the Policy for Procurement with Federal Funds.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Agoura Hills, as follows:

Section 1. The City Council hereby finds that the Policy for Procurement with Federal Funds is necessary, because the Policy meets the Uniform Guidance and federal government standards, as well as protects the interests of the City of Agoura Hills.

Section 2. The City Council rescinds Resolution 18-1870 Adopting the Policy with Federal Funds.

Section 3. The City Council hereby adopts the current resolution amending the Policy for Procurement with Federal Funds in Exhibit “A”, attached hereto and incorporated by reference .

PASSED, APPROVED, AND ADOPTED this 23rd day of June, 2021, by the following vote to wit:

AYES: ()
NOES: ()
ABSTAIN: ()
ABSENT: ()

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk



**CITY OF AGOURA HILLS
POLICY FOR PROCUREMENT WITH FEDERAL FUNDS
(REVISED 5-19-21)**

In addition to Chapters 7 (Purchasing System) and 11 (Public Projects) of Article II of the Agoura Hills Municipal Code, this policy shall apply to the awarding of contracts and sub-grants by the City that are funded, in part or in whole, by federal grants or funds pursuant 2 CFR Subtitle A, Chapter 2, Part 200, Subpart D, Sections 200.317-200.326.

I. GENERAL PROCUREMENT STANDARDS

A. **Code of Conduct.** As representatives of the City of Agoura Hills, all employees are expected to conduct themselves in a professional and ethical manner, maintaining high standards of integrity and the use of good judgment. Employees are expected to be principled in their business interactions and act in good faith with individuals both inside and outside the City. The following Code of Conduct shall govern the performance, behavior and actions of the City, including employees, directors, appointed or elected officials, volunteers, or agents who are engaged in any aspect of procurement, including, but not limited to, purchasing goods and services, awarding contracts and grants, and the administration and supervision of contracts:

1. No employee, director, appointed or elected official, volunteer, or agent of the City shall participate in the selection, award, or administration of contracts supported by a federal award if a conflict of interest is real or apparent to a reasonable person.
2. Conflicts of interest may arise when any employee, officer, or agent of the City, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a real or apparent financial or other interest in or a tangible personal benefit from a firm considered for the contract.
3. No employee, director, appointed or elected official, volunteer, or agent of the City shall do business with, award contracts to, or show favoritism toward a member of his or her immediate family, spouse's family, or to any company, vendor, contractor, or parties to subcontractors who either employ or has any relationship to a family member; or award a contract or bid which violates the spirit or intent of federal, state and local procurement laws and policies established to maximize free and open competition among qualified vendors.
4. The City's employees, directors, appointed or elected officials, volunteers, or agents shall neither solicit nor accept gratuities, favors, gifts, consulting fees, trips, or anything having a monetary value in excess of twenty-five dollars (\$25.00) from a vendor, potential vendor, family or employees of a vendor, contractor or parties to subcontractors.

5. Disciplinary measures for violations of the Code of Conduct by employees, directors, appointed or elected officials, volunteers, or agents who are engaged in any aspect of procurement, including, but not limited to, purchasing goods and services, awarding contracts and grants, and the administration and supervision of contracts could lead to disciplinary measures, up to and including possible termination of employment.

B. Solicitation Procedures

1. Acquisition of unnecessary or duplicative items must be avoided. Consideration should be given to consolidating or dividing procurements to obtain a more economical purchase. When appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.
2. To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services, the City shall enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.
3. Procuring federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs shall be utilized.
4. Value engineering clauses may be used in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.
5. Contracts shall only be awarded to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
6. Records will be maintained sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. The City Clerk will be the repository for said records and shall be maintained for period of no less than seven (7) years.
7. Time and material type contracts (open-ended) may be used only after a determination that no other contract is suitable. Time and material type contract means a contract where the cost to the City is the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expense, and profit. Each time a

material contract will set a ceiling price that the contractor exceeds at its own risk. A higher degree of oversight is required in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

8. The City alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the City of any contractual responsibilities under its contracts. The federal awarding agency will not substitute its judgment for that of the City unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

C. Competition

1. All procurement transactions must be conducted in a manner providing full and open competition. 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 will be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include, but are not limited to:
 - a. Placing unreasonable requirements on firms in order for them to qualify to do business;
 - b. Requiring unnecessary experience and excessive bonding;
 - c. Noncompetitive pricing practices between firms or between affiliated companies;
 - d. Noncompetitive contracts to consultants that are on retainer contracts;
 - e. Organizational conflicts of interest;
 - f. 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
 - g. Any arbitrary action in the procurement process.
2. Procurements shall be conducted 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.

3. All solicitations will 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 standard 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 relevant requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated.
4. Bids and proposals shall identify all the requirements which the offerors must fulfill and all other factors to be used in evaluation bids or proposals

D. **Methods of Procurement** to be followed. The City shall use one of the following methods of procurement:

1. **Procurement by Micro-Purchases.** Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and adjusted periodically for inflation. To the extent practicable, the City must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the City considers the price to be reasonable. As of the date of this policy, the micro-purchase threshold is \$3,000.
2. **Procurement by Small Purchase Procedures.** Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies or other property that do not cost more than the simplified acquisition threshold as set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908 and periodically adjusted for inflation. If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources. As of the date of this policy, the simplified acquisition threshold is \$150,000. For purchases exceeding twenty five thousand (\$25,000), City Council approval is required.
3. **Procurement by Sealed Bids (Formal Advertising).** Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price.

a. For sealed bidding to be feasible, the following conditions should be present:

- (1) A complete, adequate, and realistic specification or purchase description is available;
- (2) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (3) The procurement lends itself to a firm-fixed-price contract and the selection of the successful bidder can be made principally based on price.

b. If sealed bids are used, the following requirements apply:

- (1) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of qualified sources, providing them sufficient time prior to the date set for opening the bids;
- (2) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services for the bidder to properly respond;
- (3) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- (4) A firm-fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (5) If there is a sound documented reason, any or all bids may be rejected.

4. **Procurement by Competitive Proposals:** Purchases over the Simplified Acquisition threshold, which is currently \$150,000. This procurement method requires formal solicitation, fixed-price or cost-reimbursement contracts, and is used when sealed bids are not appropriate. The contract should be awarded to the responsible firm whose proposal is most advantageous to the program, with price being one of the various factors. If this method is used, the following requirements apply:

- a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- b. Proposals must be solicited from an adequate number of qualified sources;

- c. The methods for conducting technical evaluations of the proposals received and for selecting recipients may include, but not limited to: oral interviews, references, past performance, availability to perform work, and certifications as determined by project scope.
- d. Any response that takes exception to any mandatory items in this proposal process may be rejected and not considered;
- e. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the City, with price and other factors considered; and,
- f. Competitive proposal procedures may be used for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services, though A/E firms are a potential source to perform the proposed effort.
- g. Noncompetitive proposals: Also known as sole-source procurement, this may be appropriate only when one or more of the following criteria are met:
 - The dollar amount does not exceed the micro-purchase threshold in Subsection D.1;
 - The item is available only from a single source;
 - The public emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity; or
 - After solicitation of a number of sources, competition is determined inadequate.

E. Contract Cost and Price. A cost or price analysis shall be performed in connection with every procurement action in excess of the Simplified Acquisition threshold (\$150,000) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, independent estimates shall be made prior to receiving bids and proposals.

1. Profit shall be negotiated as a separate element of the price for each contract in which there is a no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
2. Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the City under Subpart E- Cost Principles of Part 200- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
3. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

F. Federal Awarding Agency or Pass-Through Entity Review.

1. The City shall make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the City desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.
2. The City will make available upon request, for the Federal awarding agency or pass-through entity pre- procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
 - a. Procurement procedures or operation fails to comply with the procurement standards in this part;
 - b. The procurement is expected to exceed the Simplified Acquisition Threshold (\$150,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
 - c. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
 - d. The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder

under a sealed bid procurement; or

- e. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
3. The City is exempt from the pre-procurement review in paragraph 2 of this section if the federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.
4. The City may request that its procurement system be reviewed by the federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;
5. The City may self-certify its procurement system. Such self-certification must not limit the federal awarding agency's right to survey the system. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the City that it is complying with these standards. The City must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

G. Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (\$150,000), the federal awarding or pass-through entity may accept the bonding policy and requirements of the City provided that the federal awarding agency or pass-through entity has made a determination that the federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

1. A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified;
2. A performance bond on the part of the contractor for 100 percent (100%) of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract; and,
3. A payment bond on the part of the contractor for 100 percent (100%) of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

H. Contract Provisions

All contracts using federal funding shall comply with the following as applicable:

1. Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the City including the manner by which it will be effected and the basis for settlement.
3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The City entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The City entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient

must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City entity must report all suspected or reported violations to the Federal awarding agency.

5. Copeland "Anti-Kickback" Act. Applies to construction contracts in excess of \$2,000. It prohibits kickbacks in construction contracts funded with Federal monies. Contractors and subcontractors or subrecipients shall be prohibited from inducing any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled and suspected or reported violations shall be immediately reported to the Federal awarding agency.
6. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the City in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
7. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements", and any implementing regulations issued by the awarding agency.
8. Clean Air Act & Federal Water Pollution Control Act. Contracts and sub grants in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act. Suspected or reported violations must be reported to the

Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

9. Debarment and Suspension. A contract award must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
 10. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the City award.
- I. Contracting with small and minority business, women's business enterprises, and labor surplus area firms.**

All necessary affirmative steps will be taken to assure that minority business, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as

the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and,

6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

J. Domestic preferences for procurements.

1. As appropriate and to the extent consistent with law, the City should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
2. For purposes of this Section:
 - a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - b. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.