WESTMINSTER COLLEGE
Purchasing Policy for Federal Grants and Related Procedures

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1. POLICY ADOPTING UNIFORM GUIDANCE

On December 26, 2014, the United States Office of Management and Budget (OMB) through the Code of Federal Regulation issued new Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards in the Federal Register. This Uniform Guidance replaces the administrative, accounting, audit rules and principles previously required in the OMB Circulars, including A-21, A-110, and A-133.

Throughout the process of implementing the new requirements mandated by the Uniform Guidance, College purchasing policies and procedures were evaluated to identify all necessary changes resulting from the newly established Uniform Guidance. In accordance with Section 200.110 of the Uniform Guidance, procurement standards in Section 200.317 - 200.326, non-federal entities were allowed to comply with procurement standards in previous OMB guidance for one additional fiscal year after the relevant parts went into effect. Since the implementation of the Uniform Guidance in December 2014, additional one year grace periods were allowed for Fiscal Years 2016 (fiscal year ending
June 30, 2016), 2017 (fiscal year ending June 30, 2017) and 2018 (fiscal year ending June 30, 2018). In accordance with the grace period provisions, Westminster College elected to postpone implementation of all Uniform Guidance requirements until all elements of the Uniform Guidance were finalized.

Effective July 1, 2018, Westminster College has elected to implement all aspects of the Uniform Guidance.

2. TO WHOM THIS POLICY APPLIES

This policy applies to all faculty and staff of Westminster College who administer federal grants.

3. GENERAL STANDARDS REQUIRED BY UNIFORM GUIDANCE

A. Every non-federal entity receiving federal awards must have documented procurement procedures that reflect federal law, Uniform Guidance standards, and any state regulations.

B. Entities should focus on the most economical solution during the procurement process, and must avoid using federal funds for the acquisition of unnecessary items. Organizations are encouraged to consider the use of shared services and intergovernmental agreements to foster greater economy and efficiency.

C. Written conflict-of-interest policies are required. No employee or agent of the entity may participate in the selection, award, or administration of a contract funded by federal grant dollars if he or she has an actual or apparent conflict of interest.

D. The organization must document the procurement steps and activities required to be completed. This includes the basis for the type of procurement, contract type, and the basis for the contractor selection and price. Ultimately, the College of federal awards must maintain an appropriate level of oversight to ensure that contractors perform in accordance with the terms of their contract.

E. Uniform Guidance requires full and open competition and a high degree of due diligence and documentation relating to all procurement activities. The organization is required to consider all procurement options available while planning the various purchasing needs of any federally funded project.

F. Contractors or vendors who assist in drafting specifications for controlled bid processes or “RFx” (i.e., Requests for Quote, Information, or Proposal; RFQ, RFI, or RFP, respectively) must be excluded from competing for those opportunities.

G. RFx specifications cannot have unreasonable or restrictive requirements that are meant to limit competition.
H. Procurements must be conducted in a manner that prohibits the use of geographical preferences in the evaluation of proposals, except in certain case where federal law explicitly requires or encourages geographic preference or when contracting for architectural and engineering services, provided that specifying geographic location leaves an appropriate number of qualified firms.

4. PROCUREMENT METHODS

A. Micro-purchase: Purchases where the aggregate dollar amount does not exceed $10,000 (or $2,000 if the procurement is construction and subject to Davis-Bacon). When practical, the entity should distribute micro-purchases equitably among qualified suppliers. No competitive quotes are required if management determines that the price is reasonable.

B. Small purchase: Includes purchases up to the Simplified Acquisition threshold, which is now $250,000. Informal purchasing procedures are acceptable, but price or rate quotes (minimum 3) must be obtained from an adequate number of sources.

C. Competitive proposals (RFx): Used for purchases over the Simplified Acquisition Threshold, which is currently $250,000. These procurement methods require formal solicitation, fixed-price or cost-reimbursement contracts, and are 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. Sealed bids are used when the funding source requires the use of sealed bids. 2 CFR 200.320

D. Noncompetitive proposals: Also known as sole-source procurement, this may be appropriate only when specific criteria are met. Be advised that the new Uniform Guidance has placed a greater level of scrutiny on the use of Sole Source procurements (2 CFR 200.320). Every sole source will require a price/cost justification. Under the new guidance, the use of sole (or single source) procurements has been limited to four distinct justifications. Those are:

1. Product/service is only available from a single source;
2. Public Emergency Procurement
3. Federal Awarding Agency Authorization (the awarding agency specifically authorizes a non-competitive procurement after a written request from the Non-federal entity);
4. Inadequate competition after solicitation of multiple sources.
5. PROCUREMENT PROCEDURES

A. Minimum Requirements. Federal procurement procedures require, at a minimum, satisfaction of items 1, 2, and 3 below.

1. The College must avoid purchasing unnecessary items.

2. Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical method of procurement for each federal government grant expenditure.

3. When soliciting competitive bids for goods and services, the solicitation process must provide for all of the following.
   a. A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
   b. Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.
   c. 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.
   d. The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
   e. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
   f. Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

B. Small, Minority, and Women-Owned Firms. Positive efforts shall be made by the College to utilize small businesses, minority-owned firms, and women’s business
enterprises, whenever possible. When soliciting bids for goods or services, the College shall take all of the following steps to further this goal:

1. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.

2. Make information on forthcoming opportunities available and arrange timeframes for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

3. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

4. Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

5. 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 small businesses, minority-owned firms and women's businesses.

C. **Procurement Instruments.** The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the 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.

D. **Responsible Contractors.** 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.

1. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of E.O.s 12549 and 12689, "Debarment and Suspension." The College shall comply with the nonprocurement debarment and suspension common rule implementing E.O.s 12549 and
12689, "Debarment and Suspension." This common rule restricts subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

2. No contract shall be made with parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the Simplified Acquisition Threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

E. Documentation Required. The College shall, on request, make available for the federal awarding agency, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:

1. A College's procurement procedures or operation fails to comply with the procurement standards in the federal awarding agency's implementation of this Circular.

2. The procurement is expected to exceed the “Simplified Acquisition Threshold” (currently $250,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

3. The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product.

4. The proposed award over the Simplified Acquisition Threshold is to be awarded to other than the apparent low bidder under sealed bid procurement.

5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the Simplified Acquisition Threshold.

F. Procurement Records. Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action.
For price analysis, this would mean keeping copies of all the documentation of the prices and vendors that were compared, identifying which vendor was chosen, and stating why that vendor was chosen. For cost analysis, it would mean keeping written documentation of the determination of whether a cost was reasonable, allocable to that grant, and allowable for that grant. In addition, the procurement records for purchases in excess of the Simplified Acquisition Threshold (currently $250,000) shall include the following at a minimum:

1. Basis for contractor selection,
2. Justification for lack of competition when competitive bids or offers are not obtained, and
3. Basis for award cost or price.

G. Contract Administration. A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Westminster College personnel overseeing the grant shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

H. Contract Provisions. The College shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subcontracts:

1. Contracts in excess of the Simplified Acquisition 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.

2. All contracts in excess of the Simplified Acquisition Threshold shall contain suitable provisions for termination by the College, including the manner by which termination shall be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
3. Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the College to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $250,000. For those contracts or subcontracts exceeding $250,000, the federal awarding agency may accept the bonding policy and requirements of the College, provided the federal awarding agency has made a determination that the federal government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.

4. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

5. A performance bond on the part of the contractor for 100 percent 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.

6. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

7. Where bonds are required in the situations described herein, 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."

8. All negotiated contracts (except those for less than the Simplified Acquisition Threshold) awarded by the College shall include a provision to the effect that the College, 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 a specific program for the purpose of making audits, examinations, excerpts and transcriptions.
9. All contracts, including small purchases, awarded by the College and its contractors shall contain the procurement provisions of Appendix A to this OMB Circular A-110, Part 215 as applicable.

I. Costs. All allowable costs will be determined by OMB 2 CFR §200, FARs, and/or by the granting entity through grant manuals or award terms and conditions. For federally sponsored awards, allowable costs generally fall within these guidelines:

1. Costs must be reasonable. This is defined as the action that a prudent person would take under the circumstances

2. Costs must be allocable to federally sponsored agreements under the principles and methods described in OMB A-21. (See OMB Circular A-21; Unallowable Costs.

3. Costs must be given consistent treatment through application of Generally Accepted Accounting Principles appropriate to the circumstances as dictated by Cost Accounting Standards. This includes the use of account codes for cost classification.

4. Costs must conform to any limitations or exclusions set forth in OMB Circular A-21 or in the sponsored agreement as to types or amounts of cost items

6. RESPONSIBLE ADMINISTRATOR

The Vice President of Finance and Administration is responsible for enforcing the Policy on Policies and its related procedures on behalf of the College.

7. RELATED POLICIES

Policy 260 Purchasing Policy and Principles

8. HISTORY

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<tr>
<th>Date of Last Action</th>
<th>Action Taken</th>
<th>Authorizing Entity</th>
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<tr>
<td>June 11, 2019</td>
<td>Purchasing Policy for Federal Grants Adopted</td>
<td>Policy Governance Committee</td>
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9. SIGNATURE, TITLE, AND DATE OF APPROVAL

Approved:______________________________________________________

Bethami Dobkin, President