

## Clark Atlanta University – Title III Programs



Title III Administration

**From:** Ms. Connie Hannah-Willis, Director, Title III Programs

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**Subject:** Procurement Standards – Department of Education – HBCU & HBGI  
Title III Policies and Procedures

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This documentation outlines the applicable procurement standards and requirements for the Strengthening Historically Black Colleges and Universities, and the Strengthening Historically Black Graduate Institutions grant programs (Title III Programs). This document is not intended as a replacement for the existing Federal agency or University guidelines, but delineates rules of the Federal Grant Financial Guidelines as prescribed in Education Department General Administrative Regulations (EDGAR). As a grantee, designated Clark Atlanta University (CAU) personnel are responsible for reading the Federal Financial Guidelines and seeking guidance from the Department of Education on any rules that require additional clarification. Clark Atlanta University is unconditionally required to comply with Federal procurement standards.

The following standards are designed to ensure that materials and services are obtained in an effective manner and in compliance with the provisions of the applicable Federal statutes and executive orders. The areas delineated in this resource document include:

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## Competition

- **Open and Free Competition must exist in the Request for Proposal (RFP) process. To eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids, or RFPs must be excluded from competition. Solicitations (RFPs) must clearly state all requirements for award. (Competitive bids are required for purchases of equipment, materials, supplies or goods greater than \$5,000.) Awards must be made based on evaluation of the response to the RFP (Solicitation). Clark Atlanta University must maintain records that demonstrate basis for award, justification for lack of competition, and basis for award price or cost.**

## Procurement Records

- **Procurement records and files for purchases in excess of the small purchase threshold (\$1,000) or the University's threshold shall include (3 bids) and additionally, the following at a minimum:**
  - Basis for contractor selection;
  - Justification for lack of competition when competitive bids or offers are not obtained; and
  - Basis for award cost or price.

## Procurement Procedures

- **Request for Proposals (RFPs), Solicitations, Invitations to Bid, and related activities must provide for all the following:**
  - i. A clear and accurate description of the technical requirements for the material, product, or service to be procured (the description must not contain features which unduly restrict competition);
  - ii. Requirements which the bidder or 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 the functions to be performed, or performance required, including the range of acceptable characteristics or minimum acceptable standards;
  - iv. The specific features of the brand name or equal descriptions that bidders are required to meet when these items are included in the solicitation;
  - v. The acceptance, to the extent practicable and economically feasible, for products and services dimensioned in the metric system of measurement; and
  - 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.

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- **Clark Atlanta University on request, must make available for the Department of Education, pre-award review and procurement documents, such as RFP's or invitations to bid, independent cost estimates, etc. , when any of the following conditions apply:**
  - Procurement procedures or operation fails to comply with EDGAR Part.
  - The procurement is expected to exceed \$5,000 – small purchase threshold, and is to be awarded without competition or only one bid or offer is received in response to a solicitation.
  - The procurement is expected to exceed the small purchase threshold, specifies a “brand name” product.
  - The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under s sealed bid procurement.
  - A proposed contract modification changes the scope of a contract or increases the contract amount of the small purchase threshold.
  
- **Positive efforts must be made by Clark Atlanta University to utilize small businesses, minority-owned firms, and women’s business enterprises, whenever possible. Clark Atlanta University must ensure the following steps are taken when securing the services of vendors using Title III funds (*EDGAR 34 CFR Part 74.44 [b]*):**
  - i. Ensure that small businesses, minority-owned firms, and women’s businesses are used to the fullest extend practicable;
  - ii. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women’s business enterprises;
  - iii. 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;
  - iv. Encourage contracting with consortium 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;
  - v. Use the services and assistance, as appropriate, or organizations such as the Small business Administration ad the Department of Commerce’s Minority Business Development Agency in the solicitation and utilization of small business, minority-owned firms, and women’s business enterprises.

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### Cost and price analysis

- **Some form of cost or price analysis must be performed and documented in the Clark Atlanta University's procurement files/procurement records in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. (Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.)**

### Contract administration

- **A system for contract administration must 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. Clark Atlanta University must evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.**

### Contract provisions

- **Clark Atlanta University must include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts.**

(a) 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.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected 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.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds \$100,000. For those contracts or subcontracts exceeding \$100,000, the Federal awarding agency may accept the bonding policy and requirements of the recipient, 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.

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- (1) 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.
  - (2) 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.
  - (3) 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.
  - (4) 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."
- (d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients 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 a specific program for the purpose of making audits, examinations, excerpts and transcriptions.
- (e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this Circular, as applicable.

### **Resources:**

- EDGAR – Education Department General Administrative Regulations 34 CFR Parts 74, 75, 76, 77, 79, 80, 81, 82, (84), 85, (85), 86, 97, 98, and 99
- CDFR – The Catalog of Federal Domestic Assistance
- OMB Circular No. A-21 – Cost Principles – Allowable & Unallowable Costs
- OMB Circular No. A-110 – Uniform Administrative Requirements for Grants and Agreement with Institutions of Higher Education, Hospital, and other Non-Profit Organizations
- OMB Circular No. A-133 – Single Audit
- Executive Order 12372 – Intergovernmental Review of Federal Programs