

321—5.15(231) Acquisition of goods and services.

5.15(1) Authority. The department and the AAA may acquire goods and services as necessary to carry out their responsibilities under the OAA, regulations, state laws or rules by the following methods:

- a. Purchase.
- b. Lease or rental.
- c. Donation.

5.15(2) Suppliers of goods and services may be:

- a. Federal, state and local governmental agencies.
- b. Public or private nonprofit organizations.
- c. Persons as defined in Iowa Code section 4.1(20).

5.15(3) Standards. All acquisitions of goods and services shall be in compliance with federal regulations, 45 CFR §74, August 25, 1994, Administration of Grants, federal law or Iowa law. Where all other factors are equal, preference will be given to Iowa contractors in compliance with state law.

5.15(4) Utilization of small businesses and minority contractors. Positive efforts shall be made to utilize small business and minority-owned business sources for supplies and services.

a. Records shall be maintained for a period of not less than three years following the fiscal year for which the contract was in effect showing names and identification numbers of small business or minority contractors contacted in regard to each contract.

b. This subrule shall not be construed to require the award of contracts that favor small business or minority contractors when this would result in higher cost to the department or the AAA.

5.15(5) Free competition. All acquisition transactions, whether negotiated or advertised, shall be conducted in a manner to provide maximum open and free competition. Special attention shall be given to preventing organizational conflicts of interest or other noncompetitive practices which may restrict or eliminate competition.

5.15(6) Description of goods or service. Purchase, lease or rental invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical or operational requirements for the requested material, product, or service.

a. The description shall not contain features which unduly restrict competition.

b. "Brand name or equal" descriptions may be used to define the required performance or other unique requirements of a proposed acquisition. When so used, the specific quality, operational or performance features of the name brand which must be met by bidders shall be clearly specified.

c. The invitations for bids shall clearly set forth all requirements that the bidder shall fulfill in order for the bid to be evaluated and accepted.

5.15(7) Appropriate acquisition documents and prohibited costing method. The type of method used (i.e., fixed-price contract, cost reimbursement contract, purchase order, incentive contract, negotiation) shall be appropriate for the particular acquisition and for promoting the best interest of the program involved. The "cost plus a percentage of cost" method of contracting is prohibited.

5.15(8) Bids. To procure goods or services, the department or AAA shall use the following procedures:

a. When the estimated one-year value is equal to or greater than \$5,000 but less than \$50,000 or when the estimated multiyear aggregate value, including all renewals, is \$15,000 or more, but is less than \$150,000, the department or AAA, in the department's or AAA's sole discretion, shall use either an informal or formal competitive selection process.

b. When the estimated one-year value of the contract is equal to or greater than \$50,000 or the estimated value of a multiyear contract in the aggregate, including all renewals, is equal to or greater than \$150,000, the department or AAA shall use a formal competitive selection process to procure the goods or services.

c. The requirement to use competitive selection to obtain a provider or supplier applies whether an AAA obtains those services from a public or private entity. If the successful proposal for the service or supplier is from a public entity and the contract is designated as a 28E agreement, the AAA shall not be the initiating agency for that agreement.

5.15(9) Exceptions. Acquisitions may be accomplished through noncompetitive negotiation if it is not feasible to use competitive selection. Contracts may be negotiated under the following circumstances:

- a.* The item is available only from a single source; or
- b.* A public exigency or emergency creates an urgency for the item that will not permit delays incident to competitive selection; or
- c.* The federal grantor agency authorizes noncompetitive selection; or
- d.* After solicitation of a number of sources, competition is determined inadequate.

When the client of a specific service category has freedom of choice between multiple AAA-authorized service providers, the limitations given above do not apply.

5.15(10) Selection of provider. When bids are obtained, the award shall be made to the bid that is responsive to the requirements of the solicitation and is most advantageous to the item recipient when price and other factors are considered. Any and all bids may be rejected and new bids requested if the bids received are not acceptable.

5.15(11) Methods of advertising. The invitation for bids shall be advertised by two separate publications in the official newspaper(s) designated by the county in which the goods or services are to be furnished. Additional publication in newspapers other than those above is not prohibited. The first publication shall not be less than 30 days prior to the date set for receiving bids. Additional methods of advertising may be used including contacting minority contractors as specified in subrule 5.15(4).

5.15(12) Responsible bidders. Whether obtained through formal advertising or negotiation, contracts shall be made only with responsible suppliers who possess the ability to perform successfully under the terms and conditions of the contract. Consideration shall be given to matters such as contractor integrity, record of past performance, financial and technical resources, or accessibility to other resources necessary for satisfactory completion of the contract.