EXAMPLE ONLY – FOLLOW ENTITY’S OWN PRACTICE

**SECTION IV. CODES OF CONDUCT.**

ABC maintains written standards of conduct and conflict of interest policies governing the performance of its employees. The standards of conduct and conflict of interest are found in the ABC Employee Handbook and the ABC Conflict of Interest Policy. Each employee is expected to adhere to these standards.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, 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 financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, ABC may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. Any violations of such standards by officers, employees, or agents of the ABC company will lead to disciplinary action or up to termination of employment.

**SECTION V. COMPETITION.**

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, or 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. ABC prohibits the use of statutorily or administratively imposed preferences in the evaluation of bids or proposals.
8. ABC 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, ABC will not preclude potential bidders from qualifying during the solicitation period.

**SECTION VI. PROCUREMENT – GENERAL PROCEDURES.**

General procedures pertaining to ABC procurements in accordance to these provisions are as follows:

1. ABC will avoid purchasing unnecessary or duplicated items.
2. ABC will maintain oversight over contractors and/or sub recipients to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
3. ABC will not impose state, local or tribal geographical preferences in the evaluation of bids or proposals. Geographic location may be a selection criterion in the procurement process, provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
4. Where appropriate, ABC will conduct an analysis of lease and purchase alternatives to determine which would be the most economical and practical procurement for ABC.
5. Solicitations for goods and services shall provide for the following, when applicable:
6. 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.
7. Requirements which the bidder must fulfill and all other factors to be used in evaluating bids or proposals.
8. A description, whenever practical, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
9. The specific features of “brand name or equal”, or approved equal; will provide clear descriptions that bidders are required to meet when such items are included in the solicitation.
10. To the extent practical and economically feasible, products and services dimensioned in the metric system of measurement will be accepted.
11. To the extent practical and economically feasible, products and services that conserve natural resources and protect the environment and are energy efficient are preferred.
12. Whenever possible, positive efforts shall be made by ABC to utilize small businesses, minority-owned firms, and women’s business enterprises. ABC shall take all of the following steps to further this goal:
* Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities.
* Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process.
* This includes, whenever possible, posting solicitations for bids or proposals fora minimum of 30 calendar days before the bid or proposal closing date.
* Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This may include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
* Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
* Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
* If the prime contractor awards subcontracts, require the prime contractor to take these same steps.
1. The type of procuring instruments used shall be determined by ABC but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved.
2. Contracts shall be made only with responsible contractors. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to necessary resources.
3. ABC shall, upon request make available for EPA or any other authorized Government agency, any procurement document, upon authorized request for the period stated in the agreement.
4. ABC shall utilize the [System for Award Management](https://www.sam.gov/portal/SAM/#1) website (<https://www.sam.gov>) to determine if potential vendors and contractors are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits.

**SECTION VII. PROCUREMENT – SPECIFIC PROCEDURES.**

ABC shall procure goods and/or services funded by federal funds in accordance with the following guidelines:

1. ABC staff members will seek competition to the fullest extent on all procurements.
2. Procurement requirements shall neither be artificially divided nor shall the extent of the service required be underestimated so as to constitute a lesser value purchase.
3. Upon award of any procurement, a written agreement shall be executed only if it is deemed to be in the best interest of ABC.
4. ABC may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:
	1. The actual cost of materials; and
	2. Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

1. Written quotes must be on vendor letterhead or otherwise identifiable to be valid. All quotes shall contain the following information:
2. Date;
3. Vendor’s name;
4. Contact person’s name and title;
5. Address;
6. Telephone number;
7. Fax number;
8. Time of Completion
9. Description of product/services offered by contractor;
10. Statement of price; and
11. Tax ID number.

Awards shall be made to the business offering the lowest acceptable quotation, all other factors being considered.

1. Appropriate individuals will ensure that goods and services are received, approved and acceptable before payments are made.

**SECTION VIII: METHODS OF PROCUREMENT.**

1. Procurement by micro-purchases (XX threshold). Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, ABC will distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if ABC entity considers the price to be reasonable.
2. Procurement by small purchase procedures (XX threshold.) 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. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.
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. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph 3(a) of this section apply.
	1. In order for sealed bidding to be feasible, the following conditions should be present:
4. A complete, adequate, and realistic specification or purchase description is available;
5. Two or more responsible bidders are willing and able to compete effectively for the business; and
6. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
	1. If sealed bids are used, the following requirements apply:
7. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids; for local and tribal governments, the invitation for bids must be publically advertised;
8. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
9. All bids will be opened at the time and place prescribed in the invitation for bids;
10. 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 must 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
11. Any or all bids may be rejected if there is a sound documented reason.
12. Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
13. 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;
14. Proposals must be solicited from an adequate number of qualified sources;
15. ABC must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
16. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
17. ABC may use competitive proposal procedures 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.
18. Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
19. The item is available only from a single source;
20. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
21. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from ABC; or
22. After solicitation of a number of sources, competition is determined inadequate.

DAVIS BACON WAGES ARE REQUIRED WHENEVER FEDERAL FUNDS ARE BEING USED UNLESS WE HAVE A WRITTEN EXCLUSION FROM THE GRANTING AGENCY FOR THAT SPECIFIC AWARD. CURRENTLY, DAVIS BACON WAGES ARE NOT REQUIRED FOR NAWCA/NAWMP OR WRP PROJECTS.

**All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.**

**SECTION IX. COST AND PRICE ANALYSIS.**

ABC shall conduct some form of cost or price analysis and document the file in connection with procurement actions. 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.

Profit, administrative costs and overhead associated with the project must be evaluated separately, giving consideration to the complexity of the work to be performed, the risk borne to the contractor, and other such factors that would influence the cost.

**SECTION X. PROCUREMENT RECORDS.**

ABC shall maintain procurement records and files for purchases in excess of the small purchase threshold (threshold) including the following at a minimum:

1. Basis for contractor selection,
2. Justification for lack of competitive bids, and
3. Basis for award cost or price.

ABC shall maintain all records, documents, correspondence, etc. regardless of the dollar amount for each project and the file(s) for each project should be easily accessible to ABC employees as well as any federally authorized representative. Records will be retained for a length of time that satisfies the fund agreement terms, or a length of seven years following the completion of the project.

 **SECTION XI. EQUIPMENT PURCHASES**

ABC currently considers any purchase in excess of $XXXX as a Capital Asset and shall be accounted for as such in its accounting records and tracked on its Fixed Asset Schedule. All Fixed Assets purchased under a Federal Contract or Award, shall:

1. Be tracked according to serial number, description, purchase date, cost, use/location and condition of equipment and identification that the equipment is Federal property.
2. Will be used in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency.
3. Perform an inventory of all equipment at least every two years, but preferably annually.
4. Property will be physically safeguarded and protected against loss, theft and damage to the extent possible.
5. Will follow all Federal requirements for disposition of property.

**SECTION XII. CONTRACT ADMINISTRATION.**

ABC maintains an effective contract administration plan to assist in its conformance with the terms, conditions and specifications of the federal agreement awarding funds to SubABC as well as to assist in adequate and timely follow up of all procurements made under that agreement. ABC shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the agreement.

The following monitoring systems have been developed by ABC for monitoring the performance of ABC as well as any SubABC contractors.

Monitoring SubABC’s Performance:

In order to effectively administer and evaluate performance under executed agreements, ABC shall follow these guidelines:

1. Agreements shall follow each ABC routing procedures prior to execution. The Agreement Routing Procedures have been attached to this Manual as Attachment X.
2. Official Project file(s) shall be maintained containing, at a minimum, the following:
3. Agreement and any modifications;
4. Copies of all correspondence related to the project;
5. Copies of quotes and/or bids and as required, information regarding cost/price analysis;
6. Inspections;
7. Records;
8. Memos;
9. Invoices/vouchers; and
10. Trip reports.

Each Project Manager shall be responsible for compiling records related to or required on procurement.

The organization will follow all applicable rules for payment of any consultants as outlined by the appropriate federal agency. For EPA grants consultant rates shall not exceed SES Level-4. All applicable correspondence with contractors will be included in the federal award file and retained in The organization records.

**SECTION XIII. DRAWING FUNDS AND ISSUING PAYMENTS.**

Payment from Federal Funding Grant and Contract Awards are issued through ASAP, a payment system administered by the Federal Treasury Department. Access to ASAP is initiated by the Federal Agency at the time of the grant/contract award, and then ABC is responsible for managing access and permissions and maintaining banking relationships.

The Finance and Operations Director has been authorized as the Head of the Organization and has the authority to draw and transfer funds. The Senior Accountant will be responsible for providing the Finance and Operations Director with a monthly accounting report of expenditures made, and the Finance and Operations Director will draw funds according to this report. Costs should be reviewed for allowability, allocability and reasonableness and all supported. Reimbursement of expenses incurred will be the preferred method of drawing funds from Federal Grants.

If an invoice is presented for payment that is greater than $XX associated with the project, the Finance and Operations Director may request a payment draw in advance of payment. If the Finance and Operations Director deems an advance payment to be necessary, it will be done as close to the date of disbursement as possible but no more than five days prior. Furthermore, funds will not be withheld from Vendors or create any unnecessary delays. Payments may be reasonably withheld for the following reasons:

- Failure to comply with program objectives, terms and conditions of the contract or award, or compliance with Federal, State or Local laws and regulations (including 2cfr200).

- The entity is in debt to the Federal Government and named as debarred contractor.