



PLATTE RIVER RECOVERY IMPLEMENTATION PROGRAM
Procurement Policy

Office of the Executive Director
Kearney, Nebraska

I. Introduction

This directive establishes policy to be applied and overseen by the Executive Director (ED) and staff. The policy is intended to provide a clearly-defined and efficient process for obtaining the goods, services, and construction required to meet the goals of the Platte River Recovery Implementation Program (Program) while maintaining appropriate oversight from the Governance Committee (GC) and Finance Committee (FC). As referenced below, it is intended to ensure sound business practice and compliance with laws and policy of the United States of America and the States of Colorado, Nebraska, and Wyoming.

II. Authorities

Funds are provided to the Program from the Department of Interior and the states of Colorado and Wyoming through a grant agreement with the Nebraska Community Foundation, referred to as the Financial Management Entity (FME). Therefore, transactions are subject to regulations established by the Office of Management and Budget (OMB), the General Services Administration, and laws and regulations established by the States of Colorado, Nebraska, and Wyoming.

OMB Circular A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and references therein provide regulations governing grants. All applicable documentation is available at www.whitehouse.gov/omb.

Federal Acquisition Regulations (FAR) issued by the General Services Administration apply to acquisitions from for-profit entities. They are available at www.gsa.gov.

The instructions below are intended to incorporate the principles and intent of regulations to the conduct of the Program.

III. Exceptions

The Program document states that land may be acquired through a willing buyer/willing seller process with prices and terms established by negotiation. The procedures provided in this directive do not apply to land acquisition.

In addition to land, water may be acquired for Program purposes. Similar to land, the acquisition of water is to be accomplished through a negotiation process. The procedures provided in this directive do not apply to water acquisition.



44 Retention of special advisors to the ED of a technical or legal nature is exempt from the
45 procedures provided in this directive.

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47 **IV. Full and Open Competition**

48 With rare exceptions, procurement of goods, services, and construction will be the result of a
49 competitive market place. When goods, services, and construction are obtained in a manner other
50 than a competitive process, a written justification for this deviation will be provided to the
51 Governance Committee for approval prior to goods, services, or construction procurements being
52 awarded. The justification for non-competitive selection will be based on unique qualifications,
53 special circumstances, or similar conditions.

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55 **V. Small Business Programs**

56 The Governance Committee may elect to award contracts for goods, services, and construction
57 through small or disadvantaged business set-asides.

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59 **VI. Conflict of Interest**

60 Offerors on a project will be required to address whether or not any potential conflict of interest
61 exists between that project and any of their past or on-going projects, including any projects
62 currently being conducted for the Program.

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64 **VII. Types of Contracts and Agreements for Procurement of Goods, Services, and
65 Construction**

66 The following types of procurement formats/strategies will be employed, but they may be
67 adjusted or modified for a specific procurement so the approach is the most appropriate method
68 to fill the need.

69

70 **Formats:**

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- Firm Fixed Price Contract – The total requirement has a fixed price for satisfactory
72 delivery or complete performance. Progress payments can be made based on
73 completion of predetermined deliverable milestones and percentage of contract
74 amount for each.

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- Time and Materials Contract – Typically used for labor intensive requirements where
76 the hours needed may depend upon variables not clarified until the work has started;
77 services are based upon direct labor hours at a specified fixed hourly rate and
78 materials at cost (including a material handling fee). Generally, the agreement
79 provides for a not to exceed maximum expenditure. Progress payments are based on
80 elapsed time for services rendered during the agreed upon period.

81

82 **Strategies:**

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- Specific Project Contract – A contract developed for a specific project wherein the
84 terms, conditions, scope, budget, schedule, and contract form are specified.

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- 87 • Indefinite Delivery/Indefinite Quantity (ID/IQ) Term Contract – A multiple award
88 contract for specified line items through which delivery orders can be negotiated and
89 issued over a three to five year period. There would be a guaranteed earnings level
90 established for the contract.
91
- 92 • Blanket Purchase Agreement (BPA) – An agreement for specific line items with a
93 provider who is intermittently called upon for those goods or services; terms and
94 conditions are negotiated up front and any orders against the BPA must comply.
- 95 • Grant/Cooperative Agreement – An agreement with a non-profit or public entity
96 which shares interest in the Program’s goals to provide services which benefit the
97 interests of both parties. This is the only instrument where funds can be advanced
98 prior to the work.
99

100 **VIII. Thresholds and Procedures**

101 Procurement thresholds and general procedures are as follows. Contract thresholds reference the
102 intended total contract amount over the duration of the contract. For example, a contract that is
103 intended to cover five years at \$30,000 per year ($\$30,000/\text{year} \times 5 \text{ years} = \$150,000$) would be
104 subject to the procedures for a $>\$50,000$ threshold. Further procedural detail will be established
105 by the Executive Director.
106

107 The Executive Director can solicit proposals for goods, services, or construction costing less than
108 \$25,000 without FC approval if the costs of the goods and services are within the budget
109 approved by the GC. Solicitations for proposals or bids for goods, services, or construction
110 costing \$25,000 or more must be approved in accordance with the “Governance Committee
111 Approval Process for Contract Services” specified herein.
112

113 **All Thresholds:** Authorization of budgets lies with the FC and the GC as described in the
114 Program Document and summarized subsequently in this document. Authority and
115 responsibility for procurements contained within an authorized budget rests with the
116 Executive Director. Input from various Program Committees will be solicited as
117 described below or as otherwise deemed appropriate by the ED. In addition to the
118 monetary thresholds described below, guidance from the Governance Committee
119 pertaining to requests in areas of particular sensitivity may result in variances from the
120 procedures described. The ED may delegate authority in writing to personnel directly
121 reporting to the ED for acquisitions less than \$5,000. Personnel so authorized may not
122 disburse more than \$5,000 to any one entity in a single year.
123

124 **\leq \$3,000 Goods**

125 **\leq \$2,500 Services**

126 **\leq \$2,000 Construction**

- 127 • Need for proposed item or service is documented.
- 128 • Up to three quotes should be acquired; transaction can be by phone or in writing.
- 129 • Award may be to the low quote or most qualified providing best value.
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- 131 > **\$3,000 but < \$10,000 Goods**
- 132 > **\$2,500 but < \$10,000 Services**
- 133 > **\$2,000 but < \$10,000 Construction**
- 134 • Need for proposed item or service is documented
- 135 • Three quotes will be acquired by phone or in writing.
- 136 • Award may be to low quote or most qualified providing the best value.
- 137
- 138 => **\$10,000 and < \$25,000:**
- 139 • Need for proposed item or service is documented.
- 140 • Requirement will be advertised on Program Web site for five business days.
- 141 • Quotes will be provided in writing by providers.
- 142 • Award may be to the low quote or most qualified providing the best value.
- 143
- 144 >= **\$25,000 and <= \$50,000:**
- 145 • Requirement is documented in detail – specifications, units, delivery schedule,
- 146 level of expertise, qualifications of personnel, and other specific requirements are
- 147 clearly defined.
- 148 • Requirement will be advertised on Program Web site for a minimum of 15 days
- 149 and a maximum of 30 days, based on discretion of ED. Notice of requirements
- 150 may also be advertised in regional and/or local newspapers, based on discretion of
- 151 ED, for up to three days with initial publication at least two weeks prior to offer
- 152 closing date.
- 153 • Quotes, bid packages, or proposals to be provided in writing as requested.
- 154 • Pre-offer meeting may be held up to one week prior to offer closing date.
- 155 • Submittals will be reviewed for determination of responsiveness and
- 156 acceptability.
- 157 • In the case of proposals:
- 158 ○ Offers will be reviewed and where necessary, ranked by three or more
- 159 subject matter experts. The selection of the subject matter experts will be
- 160 based on knowledge and expertise of the project at issue. The panel of
- 161 subject matter experts will be assembled with input from the appropriate
- 162 Program Committees. The Governance Committee will always be
- 163 solicited for input on the composition of the panel proposed.
- 164 ○ An interview of the offerors with the subject matter experts and ED may
- 165 or may not be required, as determined by the subject matter experts and
- 166 the ED.
- 167 ○ Award is to highest ranking offer where consideration may be given to fee
- 168 as part of the selection process. Negotiation of scope and fee will occur
- 169 subsequent to selection.
- 170 • In the case of a bid or quote:
- 171 ○ A public bid opening will be held.
- 172 ○ Award is to lowest cost bidder who can meet the requirements of the bid
- 173 solicitation.



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- Requirement is documented in detail – specifications, units, delivery schedule, level of expertise, qualifications of personnel, and other specific requirements are clearly defined.
- Requirement will be advertised on Program Web site for a minimum of 21 days and a maximum of 45 days, based on the discretion of the ED. Notice of requirements will also be advertised in regional and/or local newspapers for up to three days with initial publication at least three weeks prior to offer due date.
- Quotes, bid packages or proposals to be provided in writing as requested.
- Pre-offer meeting may be held up to two weeks prior to bids/proposals due date.
- Submittals will be reviewed for determination of responsiveness and acceptability.
- In the case of proposals:
 - Offers will be reviewed and where necessary, ranked by three or more subject matter experts using a pre-determined evaluation system. The selection of the subject matter experts will be based on knowledge and expertise of the project at issue. The panel of subject matter experts will be assembled with input from the appropriate Program Committees. The Governance Committee will always be solicited for input on the composition of the panel proposed.
 - An interview of the offerors by the subject matter experts and ED may or may not be required, as determined by the subject matter experts and the ED.
 - Award is to highest ranking offer where consideration may be given to fee as part of the selection process. Negotiation of scope and fee will occur subsequent to selection.
- In the case of a bid:
 - Conduct a public bid/proposal opening.
 - Award is to lowest cost bidder who can meet the technical requirements of the bid solicitation.

IX. Governance Committee Approval Process for Contract Services

1. At each Governance Committee meeting, the Executive Director will report the contract services that will be sought during the interim until the next GC meeting. The report will include the budget item under which the work will be performed and the estimated amount required to provide the services. If the request is in an area of particular sensitivity, guidance from the Governance Committee may result in variances from the procedures described in terms of strictly monetary thresholds in the policy described previously in this document. If the estimated amount exceeds the budget for the item, the increased budget must be approved by the GC before the selection process can be initiated. The members of the GC may offer representatives to review the requests for proposal and/or serve on the selection team.



217 2. The Executive Director will draft all Requests for Proposals (RFPs) and seek comments
218 from the related advisory committee(s) and representatives offered by the GC members.
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220 3. The final drafts of the (RFPs) with the updated cost estimates will be submitted to the
221 Finance Committee (FC).
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223 If the RFP is for a single-year service and cost estimates do not exceed the budget for the related
224 work item, the FC may authorize the initiation of the selection process. If the cost estimates
225 exceed the budget for the related work item, the selection process must be delayed until the GC
226 has the opportunity to approve or reject a budget increase.
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228 All RFPs proposing multi-year services must be reviewed by the FC and approved by the GC,
229 even if the existing budget includes funds for the first year’s activities. This is necessary as
230 multi-year contracts affect future budgets, and future budgets are the responsibility of the GC.
231

232 4. The Executive Director will ensure the Selection Process progresses as outlined
233 previously in this Program Procurement Policy and in Section X of this document. For those
234 requests requiring a selection panel, the Executive Director will organize a selection team that
235 includes representatives from the related advisory committee and representatives offered by the
236 GC. The Executive Director may chair the selection team or designate as chair:

- 237 1. a member of the Executive Director’s staff
- 238 2. a member or alternate of the Governance Committee
- 239 3. the chair of the related Advisory Committee, or
- 240 4. any other person approved by the Governance Committee.

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242 5. After selection of the consultant/contractor, the Executive Director will prepare the draft
243 contract including, as a minimum: general provisions, scope of work, contract amount and
244 schedule. The draft contract will be submitted to the FC for review.
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246 If the contract meets the standards of the Program procurement policy, the contract is for a
247 single-year service, and the contract amount is within the budget for the work item, the FC can
248 authorize the Executive Director to finalize the contract and submit it to the FME, as well as
249 issue the notice to proceed to the consultant/contractor. If the contract amount exceeds the
250 budget for the cost item, the finalization of the contract must be delayed until the GC has the
251 opportunity to approve or reject a budget increase.
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253 If the contract meets the standards of the Program procurement policy, the FC can authorize the
254 ED to finalize multi-year contracts if the RFP was approved by the GC and the proposed contract
255 amount is within the budget for the first year’s activities.
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257 Multi-year contracts will specify that each year’s work activities and contract amount must be
258 approved in writing before the consultant can proceed on that year’s assignments. In order to
259 streamline this process, the FC can authorize the ED to issue the written notice to proceed if the



260 budget approved by the GC for that year’s work activity is not exceeded. If revisions are needed
261 to the budget, those revisions must be approved by the GC.

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263 **X. SELECTION PROCESS**

264 When Program services are sought through the RFP process, written submittals and interviews, if
265 considered necessary, will be utilized in selecting the winning proposal. The Proposal Selection
266 Panel will have a minimum of two weeks after the proposal submission deadline to review and
267 rank submitted proposals in accordance with scoring guidelines developed by ED Office staff.
268 Proposal scores will be compiled by ED Office staff and the Proposal Selection Team will then
269 discuss the rankings to determine if interviews are necessary, and if so which contractors to
270 interview. Interviews may be written, via conference call, or face-to-face depending on the
271 situation. Information from the proposal, from interviews, and from internal Program
272 discussions will be used to determine the successful contractor. Commitments made by a
273 contractor at the interview, if any, will be considered binding.

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275 After completing the evaluation of all proposals and, if deemed necessary, interviews, the
276 Proposal Selection Panel will tentatively select the contractor that will provide the services. A
277 final award, however, will be contingent upon successful negotiation of a contract. If the
278 Program is unable to negotiate a mutually satisfactory contract with its first choice, it may, at its
279 sole discretion, negotiate with its secondary choices or cancel and reissue a new RFP.

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281 **Debriefing of Unsuccessful Contractors**

282 Contractors whose proposals have not been selected for further consideration will be notified via
283 e-mail. Only contractors who have submitted a proposal under the criteria established by this
284 solicitation document may protest the rejection of a proposal and request a debriefing with the
285 ED and staff. The request for a debriefing must be received by the RFP point of contact within
286 three (3) business days after the Notification of Unsuccessful Proposal Letter is e-mailed to the
287 contractor. The debriefing must be held within three (3) business days of the request.

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289 Debriefing discussions will be limited to a critique of the contractor’s proposal. Comparisons
290 between proposals or evaluations of the other proposals will not be allowed. The debriefing
291 conferences may be conducted in person or on the telephone and will be scheduled for a
292 maximum of one hour.

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294 **Protest Procedures**

295 This procedure is available to contractors who submit a response to RFP solicitation documents
296 and have participated in a debriefing conference. Upon completing the debriefing conference, the
297 contractor is allowed three (3) business days to file a protest of the solicitation with the RFP
298 point of contact. Protests may be submitted by e-mail but must be followed by the original
299 document. Contractors protesting a contractor selection must adhere to the following procedure.
300 This protest procedure constitutes the sole administrative remedy available to bidders:

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302 All protests must be in writing and signed by the protesting contractor’s authorized agent. The
303 protest must state the grounds for the protest with specific facts and complete statements of the



304 action(s) being protested. A description of the relief or corrective action being requested must
305 also be included.

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307 Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- 308 • A matter of bias, discrimination, or conflict of interest on the part of an evaluator.
- 309 • Non-compliance with procedures described in the solicitation document or with the
- 310 Program's Procurement Policy.

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312 Protests not based on procedural matters will not be considered. Protests will be rejected without
313 merit if they address such issues as: (1) an evaluator's professional judgment on the quality of
314 the proposal, or (2) the Program's assessment of its own needs or requirements.

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316 Upon receipt of a protest, a protest review will be held. The Executive Director will consider the
317 record and all facts available and issue a decision within five (5) business days of receipt of
318 protest unless additional time is required, in which case the protesting party will be notified by
319 the Program.

320

321 The final determination of the protest shall:

- 322 • Find the protest lacking in merit and uphold the Proposal Selection Panel's action; or
- 323 • Find only technical or harmless errors in the solicitation process and determine the Proposal
- 324 Selection Panel to be in substantial compliance and reject the protest; or
- 325 • Find merit in the protest and provide the Governance Committee options which may include:
 - 326 - Correct the errors and re-evaluate all proposals; or
 - 327 - Reissue the solicitation document and begin a new process; or
 - 328 - Make other determinations and pursue other courses of action as appropriate.