

## **REQUIREMENT OF CONTRACTORS DOING BUSINESS WITH THE COOPERATIVE**

The purpose of this policy is to set forth the expectations of the Ohio Valley Educational Cooperative (OVEC) regarding all contractors' obligations to follow federal, state, and local laws and regulations while conducting business with OVEC.

Any contract between OVEC and a business or individual that calls for supplying OVEC with goods or services shall be governed in all respects as to validity, construction, capacity, performance, or otherwise by the laws of the Commonwealth of Kentucky.

All contractors providing goods or services to OVEC will assure OVEC they are conforming to the provisions of the Civil Rights Act of 1964 as amended. Further, contractors shall comply with the Executive Order 11256, entitled "Equal Employment Opportunity," as amended by Labor regulations (41 CFR Part 60); the Copeland Act (18 U.S.C. 874 as supplemented in the Department of Labor regulation (29 CFR part 3).

Contractors shall comply with all applicable federal, state, and local laws and regulations pertaining to wages, hours, and conditions of employment. Included in this provision is the compliance of contractors with the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. Seq. and all applicable sections of the act and the Department of Labor's supplemental regulations (29 CFR parts 5 and 1926).

In connections with the contractor's performance of work under any contract or bid award offered by OVEC, the contractor(s) shall agree not to discriminate against any employee(s) or applicant(s) for employment because of race, age, religious creed, sex, national origin, or handicap.

Finally, contractors holding contracts from OVEC in excess of \$100,000 shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C.) 87 [h], and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et. Seq.); and, Executive Order 11738 and Environmental Protection Agency (EPA) regulations (40 CFR Part 15), which prohibit the use under non-exempt federal contracts, grants, or loans of facilities included in the EPA list of violated facilities.

Contracts with OVEC shall include the provision granting OVEC employees the right to access to the contractor's records.

## **MAXIMUM FREE & OPEN COMPETITION**

It is the clear intention of the Ohio Valley Educational Cooperative to foster all procurement transactions in a manner to provide to the maximum extent practicable, open and free competition. (20 U.S.C. 1221e-3(a)(1) and 3474, OMB Circular A-110)

OVEC shall make positive efforts toward procuring and utilizing small business and minority-owned business sources of supplies and services. All such efforts shall be made to allow these sources the maximum feasible opportunity to compete for contracts with OVEC.

All procurement procedures developed and implemented by OVEC shall assure that unnecessary or duplicative items are not purchased. Where appropriate, considerations of lease and purchase alternatives will be made to determine which would be the most economical and practical procurement.

All OVEC bids and solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. Brand name or equal clause may be used as a means to define the performance of other salient requirements of a procurement, and when so used to specific features of the named brand that must be met by bidders/offer's are clearly specified.

OVEC shall use procuring instruments such as fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts, where appropriate and or required by state law and which promotes the best interest of OVEC and its programs and services. OVEC shall not use a "cost-plus-a-percentage-of-cost" method of contracting.

Contractors will be entered into by OVEC with only responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be made by OVEC for such matters as a contractor's integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. OVEC may be required by federal grants to seek prior approval by the granting agency for purchases of an aggregate amount of \$5,000 or more in the event of receiving only one bid or proposal.

OVEC shall follow the principles of cost analysis in the review and evaluation of proposals or bids to determine if the bidder meets the requirements or reasonableness, allocability, and allowability.

OVEC shall for all purchases that exceed \$10,000 maintain procurement files that include the basis for contractor selection; justification for lack of competition when competitive bids or offers were not obtained; basis for award cost or price; and a system for contract administration so as to insure contractor conformance with the terms, conditions and specifications of the contract, and to ensure adequate and timely follow-up of all purchases.

OVEC shall follow all laws of the Commonwealth of Kentucky requiring bidding of goods or services in excess of \$10,000.

## **KRS 45A.455 CONFLICT OF INTEREST GRATUITIES AND KICKBACKS USE OF CONFIDENTIAL INFORMATION**

1. It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract; or subcontract; and any solicitation or proposal therefore, in which to his knowledge:
  - a. He, or any member of his immediate family has financial interest therein; or
  - b. A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or
  - c. Any other person, business or organization with whom he or any member of this immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigations, auditing, or in any other advisory capacity.
2. It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee, or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefore.
3. It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
4. The prohibition against conflicts or interests and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefore.
5. It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual anticipated personal gain, or the actual or anticipated personal gain of any other person.

Each party shall follow the following procedure if the contract is to be terminated:

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| Step 1: | Issue a warning letter outlining the violations and state the length of time to correct the problem(s). |
| Step 2: | Issue a letter of intent to cancel contract, if the problem(s) is not resolved by a given date.         |
| Step 3: | Issue letter to cancel contract.  |