

AGAMIM CLASSICAL ACADEMY POLICY
Non-Instructional Operations and Business Services, No. 708

FEDERAL GRANT PROCUREMENT AND CONTRACTING POLICY

I. PURPOSE

This policy outlines the requirements when using federal funds from Minnesota’s Federal Charter Schools Program (CSP) Grant to purchase materials, products, or services.

II. GENERAL REQUIREMENTS

The requirements governing the purchasing process are designed to ensure that CSP subgrantees:

- (a) Follow a free and open competitive process in securing those products or services.
- (b) Properly document your purchasing activities and decisions.
- (c) Observe the special rules for particular kinds of purchases typically used under the federal Charter School Program.

The federal requirements for these administrative areas are found in the Code of Federal Regulations (CFR) at 34 CFR 80.36 for governmental subrecipients and 34 CFR 74.40-48 for subrecipients that are nonprofit organizations (e.g. CSP subgrantees). These regulations are found at www.ed.gov/policy/fund/reg.

III. THE THREE PERMITTED PROCUREMENT METHODS

Depending on the scarcity of the item or service desired, and the size of the purchase, Agamim Classical Academy will employ different methods of procurement available for use by CSP subgrantees under federal regulations.

- (a) *Small purchases—procurement of \$100,000 or less in the aggregate* (34 CFR 80.36(d)(1)):
 - Small purchases are usually made through the use of purchase orders for purchases of goods and written contracts for purchases of consultant vendor services;
 - Proposals must be solicited from an adequate number of qualified sources (three to five) consistent with the nature and requirements of the procurement;
 - Competition is sought through oral or written price quotations; and
 - For procurement of goods, catalogs or price lists may also be used.
- (b) *Competitive Proposals—procurement in excess of \$100,000* (34 CFR 80.36(d)(3)):
 - Competitive proposals may not be inappropriately broken up into smaller components solely to qualify for the less complicated procedures followed under the “small purchases” approach.

(c) *Noncompetitive proposals/sole source procurement—procurement negotiations utilized under very limited circumstances documented that another method of procurement was infeasible because* (34 CFR Part 80.36(d) (4)):

- The item or service was only available from a single source;
- A public emergency or condition requiring urgency existed which did not permit the use of competitive procurement; or
- Competition was determined to be inadequate after receiving proposals from numerous sources.

IV. CONTRACTING WITH SMALL AND MINORITY FIRMS AND WOMEN'S BUSINESS ENTERPRISES (34 CFR Part 80.36 (e))

Agamim Classical Academy will take all necessary affirmative steps to assure that small and minority firms and women's business enterprises are used when possible. Affirmative steps include:

- (a) Placing qualified small and minority business and women's business enterprises on solicitation lists;
- (b) Assuring that small and minority business and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (d) Establishing delivery schedules, where the requirements permits, which encourage participation by small and minority business and women's' business enterprises; and
- (e) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

V. DEBARRED AND SUSPENDED PARTIES (24CFR Sec. 80.35)

Agamim Classical Academy must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." (Authority: 20 U.S.C. 3474; OMB Circular A-102)

The EPLS database located at <https://explore.data.gov/is> part of the federal System for Awards Management (SAM) as required by FAR Subpart 9.4 and Executive Orders 12549 and 12689.

- (a) Prior to contract award financed in whole or part with federal CSP grant funds, CSP grantees should use the EPLS database to ensure proposed contractors are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549.
- (b) In order to document compliance with this requirement, CSP grantees should file with each CSP financed contract:
 - Results of EPLS search; and
 - Certification as part of contract from the contractors that they have not been debarred or suspended from participation in federal programs.

VI. THE ADMINISTRATIVE PROCESS

Agamim Classical Academy's administrative procedures must include a system of contract administration that includes the following:

(a) *WRITTEN PROCUREMENT PROCEDURES—procurements within the small purchase threshold (\$100,000) must:*

- Ensure that the purchase of unnecessary or duplicate items is avoided; and
- Make sure a cost or price analysis is performed for every proposed procurement action, including contract modifications, and documentation to that effect is maintained in the procurement file.

(b) *SELECTION PROCEDURES must ensure that:*

- Awards are to be made to the bidder/offeror whose offer is responsive to the solicitation and is most advantageous to the CSP subgrantee, price and other factors considered;
- Any and all offers may be rejected when it is in the CSP subgrantee's interest to do so;
- The CSP subgrantee must ensure that the award is only made to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement;
- Consideration should be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- There are protest procedures in place to handle and resolve disputes relating to procurement and in all instances report such disputes to the State (34 CFR 80.36(b)(12)).

(c) *CONTRACT ADMINISTRATION PROCEDURES must:*

- Insure all purchase orders (and contracts) are signed by the authorized official(s) of the CSP subgrantee;
- Determine the adequacy of contractor performance (34 CFR 80.36(b)(2)); and
 - i. Establish reasonable payment schedules defining amount and timing of funds to be paid.
 - ii. Insure items delivered and paid for are consistent with the purchase order and/or contract for the goods or services;
- Provide that timely payment to vendors occurs once the order is delivered, inspected, accepted, and payment authorized.

Written contracts with vendors must include the following:

- In addition to the contract certification provision under Section V. DEBARRED AND SUSPENDED PARTIES above, and in accordance with 34CFR 80.36(i) and 34CFR 74.48(e), written contracts with vendors must include the following:
 - i. For CSP financed contracts (which may only be non-construction), contracts must include provisions found in 34CFR 80.36(i):
 1. Paragraph (7) Notice of awarding agency requirements and regulations pertaining to reporting;

2. Paragraph (8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract;
 3. Paragraph (9) Awarding agency requirements and regulations pertaining to copyrights and rights in data;
 4. Paragraph (10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions;
 5. Paragraph (11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed;
 6. Paragraph (13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94 163, 89 Stat. 871).
- ii. For CSP financed non-construction contracts of \$10,000 or more, contracts must include, in addition to above, provision found in paragraph (2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement.
 - iii. For CSP financed non-construction contracts of \$100,000 or more, contracts must include in addition to above, the following provisions found in:
 1. Paragraph (1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate; and
 2. Paragraph (12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and
 3. Appendix A to Part 74-Contract Provisions, paragraph (8) Byrd Anti-Lobbying

VII. RECORDS TO BE MAINTAINED

As a CSP subgrantee, Agamim Classical Academy, in accordance with 34 CFR 80.36(b) (9), must maintain records to detail the significant history of a procurement. These records include, but are not limited to documentation on:

- (a) The rationale for selecting the method of procurement used;
- (b) The rationale for selecting/rejecting the contractor;
- (c) The rationale for selecting the type of contract;
- (d) The basis for the cost or price of a contract;
- (e) The receipt of an adequate number of price or rate quotations from qualified sources; and
- (f) Justification for lack of competition when competitive bids or offers are not obtained.