

§ 35.6560

40 CFR Ch. I (7-1-07 Edition)

(b) *Geographic and Indian Tribe preferences*—(1) *Geographic*. When conducting a procurement, the recipient must prohibit the use of statutorily or administratively imposed in-State or local geographical preferences in evaluating bids or proposals. However, nothing in this section preempts State licensing laws. In addition, when contracting for architectural and engineering (A/E) services, the recipient may use geographic location as a selection criterion, provided that when geographic location is used, its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(2) *Indian Tribe*. If the project benefits Indians, the recipient must comply with the Indian Self-Determination and Education Assistance Act of 1975 (Pub. L. 93-638).

(c) *Written specifications*. The recipient's written specifications must include a clear and accurate description of the technical requirements and the qualitative nature of the material, product or service to be procured.

(1) This description must not contain features which unduly restrict competition, unless the features are necessary to:

- (i) Test or demonstrate a specific thing;
- (ii) Provide for necessary interchangeability of parts and equipment; or
- (iii) Promote innovative technologies.

(2) The recipient must avoid the use of detailed product specifications if at all possible.

(d) *Public notice*. When soliciting bids or proposals, the recipient must allow sufficient time (generally 30 calendar days) between public notice of the proposed project and the deadline for receipt of bids or proposals. The recipient must publish the public notice in professional journals, newspapers, or publications of general circulation over a reasonable area.

(e) *Prequalified lists*. Recipients may use prequalified lists of persons, firms, or products to acquire goods and services. The list must be current and include enough qualified sources to ensure maximum open and free competi-

tion. Recipients must not preclude potential bidders from qualifying during the solicitation period.

§ 35.6560 Master list of debarred, suspended, and voluntarily excluded persons.

While evaluating bids or proposals, the recipient must consult the most current "List of Parties Excluded from Federal Procurement or Non-procurement Programs" to ensure that the firms submitting proposals are not prohibited from participation in assistance programs. The recipient must comply with the requirements regarding subawards to debarred and suspended parties described in 40 CFR 31.35.

§ 35.6565 Procurement methods.

The recipient must comply with the requirements for payment to consultants described in 40 CFR 31.36(j). In addition, the recipient must comply with the following requirements:

(a) *Small purchase procedures*. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than \$25,000 in the aggregate. If small purchase procurements are used, the recipient must obtain and document price or rate quotations from an adequate number of qualified sources.

(b) *Sealed bids (formal advertising)*. (For a remedial action award contract, except for Architectural/Engineering services and post-removal site control, the recipient must obtain the award official's approval to use a procurement method other than the sealed bid method.) Bids are publicly solicited and a fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

(1) In order for the recipient to use the sealed bid method, the following conditions must be met:

- (i) A complete, adequate, and realistic specification or purchase description is available;