

THE CENTER FOR DISCOVERY

TITLE: Procurement Policy

CLASSIFICATION: Compliance

OWNER: Caleb Dispenza, Director of Procurement

ORIGINAL DATE: 5.22.2024

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1. Purpose

1.1. General Policy Statement

The Center for Discovery, Inc., and Affiliates (“TCFD”) has adopted this Procurement Policy (“Policy”) to ensure that goods and services purchased by TCFD are obtained in a cost-effective manner and in compliance with applicable federal and state laws. TCFD management requires employees involved in the procurement process to comply with all requirements as contained within this Policy.

It is TCFD’s practice to conduct its procurement activities:

- In accordance with fair and ethical business practice
- In the most efficient and effective manner under the circumstances
- In accordance with all applicable laws and regulations
- So that the best interests of TCFD are safeguarded
- In adherence to TCFD policies and procedures
- Using competitive solicitation to the maximum extent practical
- Consistently and with appropriate documentation
- Free of conflicts of interest.

1.2. Purpose & Applicability

The purpose of this Policy is to define TCFD’s purchasing practices that govern procurements executed by TCFD. The acquisition processes described in this Policy apply to all purchases made by (1) TCFD’s Purchasing Department, and (2) TCFD programs independent of the Purchasing Department by employees, directors, officers, or agents (together, “TCFD Purchasers”).

Certain documentation standards apply to those procurements made under directly funded U.S. Federal Government grants and agreements, necessary to demonstrate compliance with applicable 2 CFR 200 requirements, when applicable. These documentation requirements are set forth in Exhibit A, “Federal Procurement Documentation Standards,” which contains a summary of key procurement documentation requirements and the dollar thresholds at which such documentation is required. Under no circumstances will procurements be split into multiple procurements to avoid documentation or approval thresholds.

Purchases may also be subject to prior funding source approval and additional requirements imposed by grants or contracts. Program Directors are responsible for reviewing any such additional requirements, bringing them to the attention of the Purchasing Department, and ensuring that contractors and vendors perform in

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accordance with the terms, conditions, and specifications of their contracts or purchase orders.

1.3. Revisions and Updates

The TCFD Chief Financial Officer (“CFO”) or their Designee, under the oversight of, and reporting to the TCFD Chief Executive Officer (“CEO”) and Board of Directors, acting through its Finance Committee, has the overall responsibility for this Policy including its overall implementation and maintenance.

The CFO will ensure this Policy is updated as needed with either additional information or changes to existing topics. The CFO will determine at least annually if the Policy requires revision or updating. Any additions or changes will be based on:

- Changes in regulation(s)
- Business need for further definition or clarification
- Changes or upgrades to the systems related to procurement methods (e.g., supplier online ordering)
- New or innovative best practices.

Revisions and updates to the Policy must be approved by the CFO after review by the TCFD CEO and Board of Directors Finance Committee.

1.4. Procurement Conduct

Any TCFD employee dealings with suppliers must comply with the TCFD Conflict of Interest Policy, the TCFD Corporate Compliance Policy as well as other applicable TCFD policies, including those contained in the TCFD Employee Handbook. Employees must also use good professional judgment. When an employee has doubt regarding appropriate conduct, they should refer to their supervisor for guidance.

Any potential or suspected violations of this Policy or other applicable policies promulgated by TCFD or contained in the TCFD Employee Handbook must be reported to the employee’s direct supervisor, the purchasing department, CFO, and/or the TCFD Corporate Compliance Hotline. The procedures for reporting ethics violations are set forth in the TCFD Corporate Compliance Program, which can be found on the TCFD website and in the TCFD Employee Handbook.

1.4.1. Dealing with Suppliers and Subcontractors

It is our practice to buy from or engage the services of suppliers and subcontractors who have high ethical standards, sound financial condition, do not appear on any exclusion lists maintained by United States or New York State government entities and a have a demonstrated reputation of meeting their obligations. We work towards firm and lasting association with our suppliers. To this end, all procurements entered into by TCFD will be made exclusively on the basis of price, quality, service, and ability to meet TCFD’s and its customers’ needs. Under no circumstances will TCFD award a

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procurement based upon the expectation or anticipation of reciprocal opportunities or referrals from the supplier.

TCFD employees must report any identical bids and suspected violations of antitrust statutes in accordance with the Corporate Compliance Policy.

1.4.2. Conflicts of Interest

TCFD employees must avoid situations, both on and off the job, where a conflict of interest or the perception of such a conflict could result. Employees must avoid any external or internal financial interest or employment that might influence their decisions or actions as employees of TCFD. When procuring directly under a U.S. Federally funded agreement, a disclosure that no conflict of interest exists may apply. In such cases, disclosure requirements shall be obtained and retained with the procurement file. See Exhibit A for documentation standards under federally funded agreements. Regardless of federal requirements, all individuals with authority to make purchasing decisions, as well as all Board members and senior-level administrators, will be required to sign an annual conflict of interest disclosure form (see Exhibit F).

1.4.3. Gifts, Gratuities, Kickbacks, or Bribes

All TCFD employees shall conduct procurement related actions in a manner above reproach and with impartiality. Employees shall not solicit or accept gifts, money, gratuities, favors, or anything of monetary value, except unsolicited items or services of nominal value, from vendors, prospective vendors, parties to subcontracts, or any other person or entity that receives, or may receive, compensation for providing goods or performing services for TCFD. See the Code of Conduct within the TCFD Employee Handbook for further details.

1.4.4. Policy Compliance

TCFD Purchasers and Program Directors shall maintain oversight to ensure that contractors and vendors perform in accordance with the terms, conditions, and specifications of contracts or purchase orders. Violations of this policy may result in disciplinary action, up to and including termination.

1.4.5. Economy and Efficiency

TCFD Purchasers are required to avoid the acquisition of unnecessary or duplicative items. TCFD Purchasers must consider the opportunity to take advantage of economies of scale from large volume purchases that may result in discounted pricing. In achieving this requirement, authorized procurement representatives must consider:

- Timing of award and customer needs
- Applicable Group Purchasing Organization (GPO) partners to which TCFD receives favorable terms and pricing

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- Whether inventory, if applicable, is available
- Cost/pricing trends for the good/service being procured
- Anticipatory needs of multiple customers and/or projects, where practical.

1.4.6. Ethics Concerns

TCFD maintains a Code of Conduct for reporting ethics concerns. For further information, see TCFD's Code of Conduct within the TCFD Employee Handbook.

1.5. Procurement Reviews

The TCFD CFO will periodically conduct procurement compliance reviews to monitor and assess procurement activities and, when necessary, initiate corrective actions to ensure procurement is conducted in accordance with this Policy.

1.6. Responsibility

All commitments of TCFD funds to external suppliers in exchange for goods or services must be in writing, unless for Micro-purchases (as defined below) made by credit card and may only be executed by an authorized representative of TCFD, acting within their respective delegated procurement authority. Senior Management is responsible for establishing and implementing the enforcement of these practices and for developing policies appropriate to the use of the credit card and for designated purposes. Designated procurement representatives will be responsible for performing the procurement function.

1.1.1. Specific Responsibility and Authority Limits

All authorized procurement representatives ("TCFD Purchaser") will be designated in writing, with any limitations on their authority limits. They will be responsible for his or her project's procurement efforts and for ensuring that each procurement is conducted in accordance with the practices prescribed in this Policy. Additionally, they will ensure that each procurement is reviewed, approved, and committed in accordance with the authority limits specified in the Procurement Approval Authority Matrix outline in Section 2.7 of this policy. The TCFD Purchaser is defined as any individual assigned purchasing authority by the CFO.

Depending on procurement circumstances (e.g., available resources, expertise, etc.) these individuals may be Contracts Administrators, Project Managers, Office Managers, or other qualified individuals with responsibility for purchasing organizational goods or services.

Procurement activities must be conducted by competent professionals consistent with the nature, size and staffing levels of the project or operation.

A TCFD Purchaser is responsible for creating, completing, and submitting for approval a purchase in accordance with the guidelines delineated in Section 2.7 (Procurement

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Approval Authority) of this policy.

1.1.2. CEO and Board of Directors

The CEO and Board Members are responsible for:

1. Reviewing and providing approval of the Policy and any amendments.
2. Reviewing and providing approval of procurement actions which exceed thresholds identified in Section 2.6 (Procurement Approval Authority).

1.1.3. Chief Financial Officer (CFO)

The CFO is responsible for:

1. Administration of the Procurement Manual
2. Implementing of the Procurement Manual
3. Monitoring of compliance with the Procurement Manual
4. Revisions and updates to the Procurement Manual
5. Serving as the authoritative role in compliance related procurement matters, as described in the Procurement Manual
6. Ensuring adequate training of TCFD Purchasers in compliance with this Policy.

1.1.4. Authorized Purchasers

The TCFD Purchaser, with the guidance and support of the Purchasing Department, shall perform the following procurement functions:

1. Assure that adequate competitive proposals are obtained and that prices are determined to be fair and reasonable (for instance, using cost or price analysis) or a written justification for sole source awards is accomplished, where applicable (See Exhibit D, "Vendor Justification Form").
2. Issue Requests for Proposals or Quotes (RFP/Q), including appropriate Representations and Certifications, where applicable.
3. Conduct a cost or price analysis, as appropriate. Price analysis is required on all procurements, whereas cost analysis is required when price analysis alone

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- is insufficient to demonstrate a fair and reasonable price, including circumstances where adequate price competition cannot be achieved. Cost analysis requires the evaluation of separate elements of proposed cost within a proposed price. Where appropriate, conduct negotiations to assure that the price is fair and reasonable, and document negotiations in the procurement file as applicable.
4. Prepare documentation substantiating the basis of award, demonstrating best value for the goods or services procured, where applicable.
 5. Prepare Purchase Order (“P.O.”) documents in accordance with the purchase requisition and this Policy.
 6. When applicable, prepare or ensure contract flow down clauses are included with the P.O. documents.
 7. Obtain authorized signature on P.O.
 8. Issue the P.O.
 9. Re-perform bullets 1, 2, 6, 7, 8 as required in connection with changes to POs and SCs.
 10. Review invoices to confirm invoice amount is accurate and in accordance with the payment terms of the PO/SC. Obtain invoice approval from the appropriate individuals. After invoice approval, forward invoice to accounts payable.
 11. On U.S. Federal projects, ensure socioeconomic programs and reporting requirements are administered.
 12. Set up and maintain procurement files. The hardcopy procurement file should be located where the project is. The procurement files shall contain, at a minimum, all the documents required by the practices set forth in this Policy. An electronic version of the Procurement file should be stored in a central repository. Procurement files are required for procurements > \$10,000 on U.S. Government projects, as set forth in Exhibit A.

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13. Ensure the Preferred Vendor List is kept up to date, with annual review.

1.7. Training

On a routine basis, appropriate training and/or experience will be provided to all individuals involved in the procurement process.

Training may be covered by live, online presentations, memorandums, or pamphlets, and may include specific instructions on the following:

- Standards of Ethics and Business Conduct
- TCFD Procurement Policy
- U.S. Government procurement policies and regulations (including information on penalties associated with the statutes on false claims and false statements)
- Standard U.S. Government clauses and provisions
- Customer specific training requirements.

1.8. Waivers and Exceptions of Policy

Policy waivers and exceptions may only be granted by the CEO or CFO of TCFD.

2. Procurement Procedures

2.1. Introduction

TCFD is a New York Not-for-profit corporation that provides services to individual and families under contracts with numerous New York State agencies as well as, on occasion, The United States government, and local governmental agencies. As a private corporation, TCFD is not required to follow procurement regulations that governmental agencies are mandated to follow. However, some of the governmental contracts to which TCFD is a party have procurement requirements that must be followed. In other situations, TCFD chooses to apply more stringent procurement policies than other private agencies may choose to follow, in order to adhere to a high standard of corporate integrity.

TCFD purchases goods and services for the programs it provides under its numerous government contracts, as well as for general overhead purposes. Our funding sources include:

- U.S. Federal Government agencies
- New York State government entities
- Private entities providing funding for specific programs and services not otherwise funded by the government.

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U.S. Federally funded agreements require compliance with a set of U.S. Federal Regulations not generally applicable to privately funded entities. These requirements are set forth in 2 CFR 200. Please note that the general standards of procurement set forth herein remain the same for all TCFD procurements (unless noted otherwise). However, the procurement documentation standards for federally funded procurements are different. See Exhibit A for a list of documentation standards employed to comply with this Policy.

2.2. Source Selection

TCFD Purchasers shall consider the use of all known qualified bidders to the maximum extent practical for its procurement types. The documentation standards for demonstrating due consideration of qualified bidders are dictated further by the procurement method employed (see Section 2.4). Consideration shall be made for contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. The further sub-sections prescribe specific procurement requirements when making a purchase under a U.S. Federally funded agreement.

2.2.1. Responsible Suppliers

TCFD shall only qualify bidders that are determined to be responsible and capable of complying with the terms and conditions of the proposed procurement. Consideration must be given to contractor integrity, compliance with public policy, past performance, and financial and technical resources. This shall include appropriate due diligence for ensuring that TCFD does not engage with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

For purchases under U.S. Federally funded agreements, the procurement representative shall review the proposed entities' SAM.gov registration to ensure it meets the responsibility criteria of the U.S. Government. This shall be completed for all direct purchases under U.S. Federally funded agreements greater than \$25,000. Documentation standards of SAM.gov reviews shall be maintained in accordance with Exhibit A to this Policy. For vendors not listed in SAM.gov, it is the responsibility of the Purchasing Department to ensure the vendor completes SBA Form 1623 to ensure compliance with all purchasing standards.

2.2.2. Preferred Vendor Lists and Group Purchasing Organizations

TCFD will maintain a preferred vendor list and make use of Group Purchasing Organizations (GPO). Preferred vendor lists shall be designed to identify vendors that meet TCFD Policies and be kept current to ensure the list continues to meet these requirements. Such maintenance shall include, at a minimum, an annual review of those vendors on the list to ensure no vendor has failed to maintain the qualifications required to be included on TCFD Preferred Vendor list. The use of preferred vendor lists

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and GPO's are a means to efficiently procure goods and services at the best possible price.

2.2.3. Minority Owned, Women Owned, and Small Business Vendors

TCFD is committed to taking all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used, when possible, in accordance with 2 CFR 200.321(a).

2.3. *Selecting Contract Type*

It is TCFD Policy to only execute fixed-price contracts for all procurements other than those specifically designated based on a full evaluation of the necessity to waiver from this policy. In general, virtually all TCFD procurements under its funding arrangements do not warrant the need for Time & Material or Cost-Reimbursement arrangements with suppliers. Should such arrangements become necessary, the CFO shall be notified to make the decision to vary from this policy based on documented findings and with and specific procedures for the unique arrangement that will be designed consistent with 2 CFR 200.318(j).

2.4. *Procurement Method*

TCFD procurements shall follow one of four (4) procurement methods:

1. Micro-purchase (< \$10,000)
2. Small Purchase Procedures (\$10,001 to \$250,000)
3. Competitive Procurement (> \$250,000)
4. Non-competitive Procurements (> \$250,000)

TCFD Purchasers are informed of procurement needs from a variety of internal parties that may take the form of a formal purchase requisition or digitally transmitted request for purchase. Procurement representatives shall only act on purchases within their assigned procurement authority and on the request of authorized internal parties. The TCFD Purchaser shall review the purchase requisition or other form of request and determine which method is appropriate, based on the dollar value of the procurement and the viability of competition. In all cases, if the purchase process includes or requires a written contract or agreement, such contract or agreement will be written or (if prepared by the vendor's counsel) reviewed and approved by TCFD Counsel and then signed only by an individual authorized by the Board of Directors of TCFD to execute contracts.

2.4.1. Micro-purchase (<\$10,000)

The majority of TCFD procurements fall into the micro-purchase threshold, currently set

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at \$10,000 for both U.S. Government funded agreements and agreements funded by state or local agencies. When the TCFD Purchaser receive a request to purchase an item or service beneath the micro-purchase threshold, they evaluate practical, available sources based on the preferred vendor list and timing of the need along with a requirement for ascertaining the price to be reasonable based on market information available, which may include published price lists, historical purchasing activity from the same or similar vendors, or other commercial means that demonstrate a fair and reasonable price was obtained. No formal solicitation requirements apply to these purchases. Purchasers shall periodically distribute purchases equitably among qualified vendors. Purchasers shall also ensure that qualified sources are used and routinely revisited when making purchases under this method.

2.4.2. Small Purchase (\$10,001 to \$250,000)

Purchases made pursuant to this method fall between the micro-purchase threshold (currently set at \$10,000) and the Simplified Acquisition Threshold (SAP) (currently set at \$250,000). These purchases do not require formal solicitations but do require the procurement representative to demonstrate that an adequate number of qualified sources were invited to quote. Such actions may include a review of multiple sources published price lists, or informal email quotations for comparative purposes in establishing a fair and reasonable price was obtained. Documentation requirements to demonstrate quote comparison and price reasonableness are set forth in Exhibit A, when procured under U.S. Federally funded agreements.

2.4.3. Competitive Proposals (>\$250,000)

This section outlines the guidelines and procedures for the submission, evaluation, and award of proposals of competitive proposals, in accordance with the federal regulations specified in 2 CFR 200.320(b)(2). The objective is to ensure fair competition, transparency, and compliance with applicable laws and regulations.

All proposals submitted to TCFD must adhere to the specifications outlined in the solicitation documents. Proposals exceeding \$250,000 require a detailed cost or price analysis as per the guidelines set forth in 2 CFR 200.320(b)(2).

Evaluation factors and their relative importance will be clearly communicated in the solicitation. Proposals will be evaluated based on the following criteria:

- Price
- Technical responsiveness
- Delivery Date/Period of Performance
- Other specified requirements and preferences.

TCFD Purchasers are responsible for conducting a cost or price analysis, ensuring the reasonableness, allocability, and allowability of proposed costs, in accordance with 2

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CFR 200.320(b)(2). Qualified and responsible sources, competing independently, will be solicited through a formal Request for Quotation/Proposal (RFQ/RFP). The solicitation will specify technical specifications without unduly restricting competition, as outlined in federal regulations.

TCFD will solicit bids from a minimum of two (2) qualified and responsible sources, as mandated by federal regulations. All solicited sources must submit priced offers to establish adequate price competition.

Upon receipt of proposals, TCFD procurement personnel will review submissions for responsiveness and compliance. Technical and price analyses, as well as negotiations when applicable, will be performed to determine the best value for TCFD in accordance with 2 CFR 200.320(b)(2). The award will be granted to the lowest responsible offeror providing the best value, considering price and other factors outlined in the solicitation. All documentation related to the procurement process, including cost or price analyses, technical reviews, and negotiations, will be documented and retained as required by federal regulations specified in 2 CFR 200.320(b)(2) and as outlined in Exhibit A. TCFD reserves the right to reject any or all bids if sound documented reasons exist, in accordance with 2 CFR 200.320(b)(2).

2.4.4. Non-Competitive Procurements (>\$250,000)

It is the policy of TCFD to competitively procure goods and services to the maximum extent practical. However, certain situations may justify non-competitive procurements. This policy outlines the circumstances under which non-competitive procurements may be considered, the justification process, and the necessary analyses for such procurements. While TCFD aims for competitive procurements, non-competitive procurement may be warranted under the following conditions:

- The item is only available from a single source.
- Public exigency or emergency prevents a delay resulting from competitive solicitations.
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals.
- After solicitation of multiple sources, competition is determined to be inadequate.

Non-competitive procurements are not justified based on a lack of advance planning or concerns related to available funds.

For sole source procurements, the requestor must document the justification, including:

- Identification of the customer.
- Nature and description of the action being approved.

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- Description of supplies or services required, including estimated value.
- Explanation of the proposed supplier's unique qualifications.
- Description of market research conducted or a statement if not conducted.
- Any other facts supporting the use of non-competitive procurement.

All non-competitive procurements greater than \$250,000 require price analysis. Price analysis utilizes market research, historical pricing, or other available information to ensure a fair and reasonable price. Cost analysis is required for non-competitive, non-commercial procurements greater than \$2,000,000 or with complex technical specifications. It involves reviewing cost elements and proposed profit to form an opinion on the fairness and reasonableness of proposed costs. For all non-competitive proposals greater than \$250,000, profit is a separate item of negotiation, as required by 2 CFR 200.323(b). Negotiations shall be documented, retained, and available for audit by applicable funding entities.

All documentation related to non-competitive procurements, including justifications, analyses, and negotiations, will be documented, and retained as per federal regulations and Section 2.8 of this policy.

2.4.5. Sealed Bid Procedures

This policy ensures the application of sealed bids in a manner consistent with federal regulations specified in 2 CFR 200.320(b)(1), fostering fair competition and effective procurement practices. For sealed bidding to be feasible, the following conditions must be present:

- A complete, adequate, and realistic specification or purchase description is available.
- Two or more responsible bidders are willing and able to compete effectively.
- The procurement lends itself to a firm fixed-price contract, and the selection of the successful bidder can be primarily based on price.

If sealed bids are used, the following requirements apply:

- Bids must be solicited from an adequate number of qualified sources, allowing sufficient response time before the bid opening. For local and tribal governments, the invitation for bids must be publicly advertised.
- The invitation for bids, including specifications and pertinent attachments, must clearly define items or services for proper bidder response.

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- All bids will be opened at the specified time and place, with public openings for bids from local and tribal governments.
- A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Factors such as discounts, transportation costs, and life cycle costs will be considered as specified in bidding documents.
- Payment discounts will be used to determine the low bid only when prior experience indicates that such discounts are usually taken advantage of.

Any or all bids may be rejected if there is a sound documented reason, in accordance with 2 CFR 200.320(b)(1)(ii)(E).

2.5. Determination, Use, and Monitoring of Subrecipients

TCFD generally does not involve subrecipients under its U.S. Government-funded agreements. A subrecipient, defined as a non-federal entity receiving a subaward, is not typically considered. However, if deemed necessary, TCFD will comply with all regulations and closely coordinate through the CFO. If the need for a subrecipient arises, the CFO will be informed, and a determination will be documented regarding the entity's status as a subrecipient.

Subrecipients, as per 2 CFR §200.324, must provide procurement files for review. TCFD maintains procurement files in a manner conducive to such reviews, aligning with the requirements of funding agencies (e.g., New York State).

TCFD will ensure all potential subrecipients undergo evaluation to determine their regulatory risk profile. A subrecipient monitoring plan will be established accordingly, considering the unique risk profile. Documentation of risk evaluations is retained in the procurement file. Monitoring activities aim to ensure subawards align with authorized purposes and comply with federal statutes, regulations, and subaward terms. Activities include:

- Reviewing financial and programmatic reports required by the pass-through entity.
- Ensuring timely and appropriate action on deficiencies detected through audits and reviews.
- Issuing management decisions for audit findings.
- Verifying subrecipient audits when required.
- Considering adjustments to the pass-through entity's records based on monitoring results.

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- Contemplating enforcement actions against noncompliant subrecipients, as per program regulations.

This policy ensures compliance, transparency, and effective oversight of subrecipient engagements under TCFD's U.S. Government-funded agreements.

2.6. Terms and Conditions

All agreements with contractors and subrecipients shall include the standard TCFD terms and conditions. When a purchase under a U.S. Federally funded agreement is made, procurement representatives must incorporate the provisions described in Appendix II to Part 200—Contract Provisions for non-federal Entity Contracts Under Federal Awards, when applicable. See Exhibit B of this Manual for further reference.

2.7. Procurement Approval Authority

All agreements shall be executed in accordance with the approval authorities established below:

Purchase	Supervisor	Senior Management	CFO	President	Board
\$25.00 - \$499.99	A				
\$500 - \$4,999.99		A			
\$5,000.00 - \$49,999.99			A*	A*	
≥\$50,000.00			A**	A**	A**

A - Requires approval of the referenced party.

A* - Requires approval of one of the "*" referenced parties.

A** - Requires approval of all "***" referenced parties.

Approvals may be by way of email, or similar, but documentation is required. Oral approvals are prohibited. Approval documentation must be submitted with the purchase order and be retained in the procurement file.

2.8. Procurement File Document Standards

TCFD shall maintain records sufficient to detail the history of each procurement transaction in accordance with 2 CFR 200.318 and in compliance with any other federal, state, local, private, or organizational requirements that apply to the record. These records must include, but are not limited to:

- A description and supporting documentation showing rationale for procurement method (e.g., cost estimates)
- Selection of contract type

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- Written price or rate quotations (such as catalog price, online price, email, or written quote), if applicable
- Copies of advertisements, requests for proposals, bid sheets or bid proposal packets
- Reasons for vendor selection or rejection, including Finance Committee and Board minutes, rejection letters and award letter
- The basis for the contract price.

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3. Attached Documents

Exhibit A: Federal Procurement Documentation Standards



Federal
Procurement Docurr

Exhibit B: Appendix II to Part 200 – Contract provisions for Non-Federal Entity Contracts Under Federal Awards

“In addition to other provisions required by the federal agency or non-federal entity, all contracts made by the non-federal entity under the federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor .”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage

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determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

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(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

(J) See §200.322 Procurement of recovered materials.”

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Exhibit C: Definitions

Bid - A request to suppliers to make submissions to a purchasing organization. One of the critical documents in the solicitation is the specification or statement of work. It may be called a request for proposal (RFP), request for response (RFR), a request for quotation (RFQ), or a request for information (RFI).

Contract - means a legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used in this part does not include a legal instrument, even if the non-federal entity considers it a contract when the substance of the transaction meets the definition of a federal award or subaward (see §200.92 Subaward).

Contractor - means an entity that receives a contract as defined in §200.22 Contract.

Cost Analysis – The evaluation of an offeror’s cost proposal for a fair and reasonable price when price analysis is not determined adequate. These circumstances apply when adequate price competition is not achieved, and is specifically required for non-commercial, sole source procurements greater than \$2M. Cost analysis specifically involves the evaluation of separate elements of cost within a proposed price.

Customer – Funding source

Equipment - means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or \$5,000. See also §§200.12 Capital assets, 200.20 Computing devices, 200.48 General purpose equipment, 200.58 Information technology systems, 200.89 Special purpose equipment, and 200.94 Supplies.

Expenditures - means charges made by a non-federal entity to a project or program for which a federal award was received.

- The charges may be reported on a cash or accrual basis, as long as the methodology is disclosed and is consistently applied.
- For reports prepared on a cash basis, expenditures are the sum of:
 - Cash disbursements for direct charges for property and services
 - The amount of indirect expense charged
 - The value of third-party in-kind contributions applied
 - The amount of cash advance payments and payments made to subrecipients.
- For reports prepared on an accrual basis, expenditures are the sum of:
 - Cash disbursements for direct charges for property and services

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- The amount of indirect expense incurred
- The value of third-party in-kind contributions applied
- The net increase or decrease in the amounts owed by the non-federal entity for:
 - Goods and other property received
 - Services performed by employees, contractors, subrecipients, and other payees
 - Programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.

Federal award - has the meaning, depending on the context, in either paragraph (A) or (B) of this section:

- A. The federal financial assistance that a non-federal entity receives directly from a federal awarding agency or indirectly from a pass-through entity, as described in §200.101 Applicability; or The cost-reimbursement contract under the federal Acquisition Regulations that a non-federal entity receives directly from a federal awarding agency or indirectly from a pass-through entity, as described in §200.101 Applicability.
- B. The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of §200.40 federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

Fixed amount awards - means a type of grant agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award. This type of federal award reduces some of the administrative burden and record-keeping requirements for both the non-federal entity and federal awarding agency or pass-through entity.

Accountability is based primarily on performance and results. See §§200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b) and 200.332 Fixed amount subawards.

Micro-purchase - means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a non-federal entity's small purchase procedures. The non-federal entity uses such procedures to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated

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administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 It is \$10,000 except as otherwise discussed in Subpart 2.1 of that regulation.

Noncompetitive Procurement - procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only from a single source
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
- The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity
- After solicitation of a number of sources, competition is determined inadequate.

Pass-through entity - means a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program.

Performance goal - means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate. In some instances (e.g., discretionary research awards), this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with agency policy).

Period of performance - means the time during which the non-federal entity may incur new obligations to carry out the work authorized under the federal award. The Federal awarding agency or pass-through entity must include start and end dates of the period of performance in the Federal award (see §§200.210 Information contained in a federal award paragraph (a)(5) and 200.331 Requirements for pass-through entities, paragraph (a)(1)(iv)).

Preferred Vendor - Supplier that has been awarded a contract and/or pricing agreement with negotiated terms and conditions and pricing favorable to TCFD. In addition, TCFD may access special pricing and competitively bid contracts conducted by different group purchasing organizations (GPO).

Price Analysis – The evaluation of an offeror’s proposal for a fair and reasonable price in the procurement cycle.

Procurement – Procurement is the acquisition of goods or services. The procurement process includes defining requirements, identifying potential sources, soliciting proposals, evaluating and selecting the supplier or subcontractor, awarding, administering, closing out, and administering warranty issues.

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Procurement Integrity – A set of rules of conduct that govern the procurement process of the Federal Government. They include regulating conduct such as prohibiting a contractor from offering or discussing a future business or employment opportunity with an agency Procurement Official, offering, or giving something of value to a procurement Official or soliciting or obtaining, prior to contract award, proprietary information, or source selection information about the procurement. See FAR 3.104 and Office of Federal Procurement Policy (OFPP) Act, 41 U.S.C. 423.

Provision – A term or condition used only in solicitation and applying only before contact award.

Purchase Requisition – The document that informs the Purchasing Department of the need for a product or service and initiates the procurement process.

Project cost - total allowable costs incurred under a federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

Purchaser – Individual who is authorized to spend TCFD funds.

Purchase Order (“P.O.”) – An offer by TCFD to buy supplies or services upon specified terms and conditions, using simplified acquisition procedures.

Requestor – Individual requesting a procurement.

Simplified acquisition threshold - means the dollar amount below which a non-federal entity may purchase property or services using small purchase methods. Non-federal entities adopt small purchase procedures to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$250,000 but this threshold is periodically adjusted for inflation. (Also see definition of §200.67 Micro-purchase.)

Solicitation – A request to suppliers to make submissions to a purchasing organization. One of the critical documents in the solicitation is the specification or statement of work. It may be called either a request for proposal (RFP), request for response (RFR), a request for quotation (RFQ), or a request for information (RFI).

Source Selection Information – Any information that is prepared for use by an agency for the purpose of evaluating a bid or proposal if that information has not been previously made available to the public or disclosed publicly. Such information may include bid prices, proposed costs, source selection plans, technical evaluation plans, technical evaluation of proposals, cost or price evaluation, competitive rate determinations, and ranking of competitors.

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Subaward - means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient - means a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.

Supplies - means all tangible personal property other than those described in §200.33 Equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. See also §§200.20 Computing devices and 200.33 Equipment.

Time and Materials (T&M) - A type of contract that provides for payment of direct labor hours at fixed hourly rates, but reimbursement of travel, materials, and other direct costs at actual cost of performance plus applicable indirect burdens.

Total Cost of Ownership - Estimate of all direct and indirect costs associated with an item over the course of its lifetime.

Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards - also known as Uniform Guidance or 2 CFR 200 is a government-wide framework for grants management and is an authoritative set of rules and requirements for federal awards that synthesizes and supersedes guidance from earlier OMB circulars.

Uniform Guidance: See Uniform Administrative Requirements.

Vendor - A supplier providing goods or services to TCFD. For purposes of this policy, the term “vendor” is used interchangeably with the term “contractor” (see definition above). The general term “vendor” is different from the definition of a “Preferred Vendor,” which is a supplier selected through a competitive bid and negotiation process and whose products and services offer optimized value.

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Exhibit D: Vendor Justification Form



TCFD Vendor
Justification Form V

Exhibit E: SBA Form 1623



SBA Debarment
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Exhibit F: Conflict of Interest Disclosure



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