

INVEST CLEAN

Competitive Procurement Standards

A Guide for Measure 4 Locomotive Subaward Recipients

Note: This document is provided for general informational purposes only and intended to offer a high-level overview of federal procurement procedures. It does not constitute legal advice, regulatory interpretation, or an official statement of government policy.

Pursuant to EPA General Terms and Conditions ([link](#)), INVEST CLEAN Measure 4 award recipients (subawardees) must comply with the applicable subaward provisions of 2 CFR Part 200 and the EPA Subaward Policy: <https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients>.

Subawardees must ensure the procurement of products and services are conducted through a competitive Request for Proposal (RFP) process. For INVEST CLEAN Measure 4 subawardees, this may apply to the procurement of both the switcher locomotive and the supporting charging infrastructure equipment and installation.

Establish Pre-RFP Compliance & Policies

Before drafting or advertising an RFP, organizations must meet the general procurement standards required by 2 CFR 200.318 (<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.318>), including but not limited to:

- **Written Procurement Procedures:** formally adopted policies or guidelines dictating how the organization handles contracts.
- **Written Code of Conduct (Conflicts of Interest):** Maintain strict rules covering real or apparent conflicts of interest. No employee, officer, or agent involved in selection, award, or administration can have a financial or personal stake in the competing firms.

RFP Package

The solicitation document must be clear and structured to foster full and open competition. Please refer to the CFR Part 200.319 and Part 200.320 for details. Key components of the RFP are listed below for guidance.

- [Link to CFR Part 200.319](#) and [Link to CFR Part 200.320](#)
- **Clear Technical Descriptions:** An accurate, non-restrictive description of the technical requirements, services, or products. Overly detailed product specifications that could bottleneck competition should be avoided. Can use "brand name or equivalent" if necessary.
- **Full and Open Competition:** Solicitations must maximize free and open competition. Awards should not be restricted based on past relationships or long-term partnerships.

- **No Conflicts of Interest:** Contractors that help draft contract specifications, statements of work, or Request for Proposals (RFPs) are forbidden from bidding on that same contract. Employees, officers, and agents involved in the procurement process must comply with the organization's written conflict of interest policy and avoid actions that restrict fair competition.
- **Cost/Price Reasonableness:** Cost must be considered during bid evaluation, as stated in CFR Part 200.319 Section e. The CFR link is provided above.
- Ensure the RFP notes that while price is a heavily weighted factor, the award will be made to the responsible offeror whose proposal is *most advantageous* to the program (price and other factors considered).
- **Disclose All Evaluation Criteria:** List all evaluation criteria and its relative weight/importance inside the RFP. The RFP must explicitly detail the scoring framework (percentages or point ranges) used to judge proposals. Proposals should not be scored based on hidden factors.
- **Federal Clauses:** Contracts funded as a whole or in part with federal funds must include all applicable federal provisions, including the contract clauses required by Appendix II to 2 CFR Part 200. Additional requirements, such as Build America, Buy America (BABA), Davis-Bacon prevailing wage provisions, nondiscrimination requirements, and other program-specific conditions, must be incorporated where applicable.
- **Build America Buy America Act (BABA):** Publicly accessible EV charging stations are generally considered infrastructure for purposes of BABA applicability. However, as stated in the CPRG Implementation Grants Notices of Funding Opportunity, “any mobile source vehicles/engines funded by [the CPRG program] would not be considered ‘infrastructure’” in the context of BABA requirements for this specific program. Please note that BABA compliance documents must be provided to South Coast AQMD at the time of equipment purchase order.
 - <https://www.epa.gov/system/files/documents/2024-10/build-america-buy-america-implementation-climate-pollution-reductions-grants.pdf>
 - <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-I/part-184>

Advertise & Promote Full Competition

To comply with 2 CFR 200 and EPA-specific cross-cutting rules, RFPs should be advertised publicly:

- **Public Solicitation:** Solicitations should be issued in a manner that promotes full and open competition and provides an adequate number of qualified entities with the opportunity to respond.
- **Distribution to qualified vendors:** Distribute the RFP to qualified vendors for the products and services you are seeking.

- **Provide Adequate Time:** EPA recommends keeping the bidding period open for a minimum of 30 calendar days so multiple qualified entities have a realistic window to respond. This is not a requirement but a recommendation to ensure fairness.
- **Socioeconomic Outreach:** Ensure that small businesses, veteran-owned business, labor surplus area firms, minority-owned firms, and women's business enterprises (MBE/WBE) are utilized when possible, including to ensure organizations like the Small Business Administration (SBA) are aware of the solicitation.

Evaluate Proposals & Documentation

- **Written Evaluation Method:** Use a pre-documented, written method for conducting technical evaluations.
- **Independent Review Panel:** Utilize reviewers who strictly adhere to the organization's conflict of interest policies. Ensure evaluators score proposals according to the published criteria.
- **Cost or Price Analysis:** Prior to contract award, the subawardee must perform and document a cost or price analysis consistent with 2 CFR 200.324. The analysis should demonstrate that the selected price is fair and reasonable in relation to the scope of work and market conditions.
- **Debarment and Suspension:** Prior to award, the subawardee must verify that the selected contractor is not suspended or debarred from participation in federal programs and must maintain documentation of the verification.
- **Thorough Documentation:** Maintain thorough records that detail the history of the procurement, including the rationale for the selection method and criteria, and the final basis for selection. Contracts should be awarded to the applicant whose proposal provides the best value considering price and other stated factors.
- **Maintain relevant documentation in case of EPA or South Coast AQMD audit, including the following:**
 - RFP and any associated public notices and advertisements issued
 - List of vendors solicited
 - Proposals received
 - Evaluation and scoring records (score sheets)
 - Award recommendation or letter
 - Executed Contracts