



PROCUREMENT POLICY

(Revised February 2022)

All procurements made by New Mexico Legal Aid (NMLA) will be made in accordance with the following procurement standards.

Procurement transactions, regardless of method or dollar value, will maximize open and free competition. NMLA shall not engage in procurement practices which may be considered arbitrary or restrictive.

Purchases will be reviewed by the Chief Financial Officer (CFO) to prevent duplication and to ensure that costs are reasonable.

I. METHODS FOR PROCUREMENT

Procurements shall be made using one of the following methods: (a) small purchase procedures, (b) competitive negotiations, (c) non-competitive negotiation and shall be made in accordance with procedures set forth below:

A. Small Purchases

Purchases which cost between \$2,000 and \$20,000 will require three over-the-telephone or e-mail quotations of rate, price, etc. A memorandum will be prepared setting forth the date calls were made, parties contacted, and prices obtained or attaching e-mails received. For purchases of less than \$2,000, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

Purchases of supplies, equipment and services which cost between \$20,000 and \$60,000 will require written estimates but no advertisement is required. NMLA will solicit written responses from at least three vendors, and if no such responses are available, a statement explaining the procurement will be prepared and filed. Vendor selection must be made based on the same precise and accurate description of the specifications and technical requirements for the item or service.

For all purchases of \$2,000 or more the NMLA Vendor Selection Form must be used to document the selection of vendors. Procurements of less than \$60,000, will require to attach quotations and explanation of pricing for approval. Procurements of \$60,000 and over require an RFP and written proposals which must be included with the NMLA Vendor Selection Form for approval of appropriate vendor by the management.

Purchases having a value exceeding \$200 but not exceeding \$2,000 quotes shall be solicited when practical to procure based upon the best obtainable price. An e-mail request should be made to the Chief Financial Officer and approval from the CFO is required.

B. Competitive Negotiations

When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services including professional, exceeds \$60,000 a Request for Proposal (RFP) notice or an Invitation for Bids (IFB) will be employed. IFB notice will generally be prepared when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. If specifications cannot be made specific enough to permit the award of a bid based on either the lowest bid or the lowest evaluated bid price, or the services to be procured are professional in nature, NMLA will use RFP.

- a. Proposals will be solicited by preparing IFB or RFP and mailed to qualified vendors or posted in relevant websites including NMLA website. The posting must be published at least seven (7) days and not more than twenty-one (21) days before the date for receipt of the proposals. The RFP will describe services or item needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. Each vendor will be provided with the same precise and accurate description of the specifications and technical requirements for the item or service. The RFP may be received by mail, fax or email and should be signed/e-mailed by an authorized representative of the vendor. Requests for proposals will always include cost as a selection factor.
- b. Award must be made to the offeror whose proposal is determined in writing by the NMLA to be the most advantageous to NMLA. Evaluations must be based on the factors set forth in the Request for Proposal and a written evaluation of each response prepared. The review committee may contact the firms regarding their proposals for clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

C. **Noncompetitive Negotiations**

Noncompetitive negotiations may be used for procurements when competitive negotiations are not feasible. NMLA may purchase goods and services through non-competitive negotiations when it is determined in writing by the CFO that competitive negotiation is not feasible and that:

1. **Emergency:** An emergency exists which will cause public harm because of the delay caused by following competitive purchasing procedures, or
2. **Sole Source:** The product or service can be obtained only from one source and no other vendor capable of fully meeting the requirements, or
3. **Single Source:** Alternative vendors exist in the competitive market, but because of technical requirements (precision, reliability) or past performance by other vendors (poor service, availability of parts) choose to solicit to bid from only one particular vendor, or
4. **Single Bidder:** Only one satisfactory proposal is received through RFP.

Procurement by noncompetitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The NMLA Executive Director and the Chief Financial Officer must approve all procurements by non-competitive negotiation when only one supplier is involved or only one response to an RFP is received. Buyer of services or items must fill out a [Vendor Selection Form](#) and write a narrative justification for non-competitive procurement.

II. **LSC FUNDS**

When Legal Services Corporation (LSC) funds used to purchase or lease personal property or contract for services, NMLA must request and receive LSC's prior approval for purchases more than \$25,000. The request for prior approval must include:

1. A statement of need;
2. A copy of the NMLA's Procurement policy; and
3. Documentation showing that NMLA followed its procurement policies and procedures in soliciting, reviewing and approving the purchase, lease or contract for services.

III. **CONTRACTS**

Generally, all procurement more than \$20,000 will be memorialized and supported by a written

contract. Where it is not feasible or is impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared.

IV. DOCUMENTATION

The Program Director or buyer of services or goods will initiate the Vendor Selection Form when a purchase of more than \$2,000 is necessary and the Chief Financial Officer authorizes the purchase. Both the NMLA Executive Director and the Chief Financial Officer must approve all procurements more than \$20,000. The Account Payable Specialist will ensure all supporting documents and necessary approvals are in place before payment is made to the appropriate vendor.

All source documents supporting any given transaction (receipts, purchase orders, invoices, and RFP data) will be retained and filed in an appropriate manner. Source documents pertinent to each individual procurement shall be filed and maintained chronologically by vendor. The form of documentation and filing will establish a clear and consistent audit trail. At a minimum, source document data must establish the basis for selection, basis for cost, including the issue of reasonableness of cost, rationale for method of procurement and selection of contract type, and basis for payment.

V. LOCALLY OWNED, MINORITY-OWNED, FEMALE-OWNED AND SMALL BUSINESSES

All necessary affirmative steps will be taken and documented to solicit participation of locally owned, minority-owned, female-owned and small businesses. NMLA will solicit proposals from minority- or women-owned businesses that provide the goods or services that are being sought. Where feasible, evaluation criteria will include a factor with an appropriate weight for these firms.

VI. DEBARMENT AND SUSPENSION

All contracts to be paid with non-LSC Federal funds expected to equal or exceed \$25,000 must have verification regarding debarment and suspension. To meet this requirement NMLA shall check the Federal Excluded Parties List System at the site below and document that the vendor has not been debarred or suspended. Verification will occur prior to a vendor being chosen and before a contract has been offered. <https://www.sam.gov/portal/public/SAM/>

VI. CODE OF CONDUCT

A. Conflict of Interest

No NMLA board member, employee or consultant of NMLA will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official or employee of NMLA, partners of such individuals, immediate family members, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

No NMLA board member and employee of NMLA may acquire a financial interest in or benefit in any way from any activity, nor shall they have any interest in any contract, subcontract or agreement for themselves or any family members.

These rules apply to all named parties and shall be effective for the period of service and for one year after leaving said position.

NMLA Conflict of Interest of policy should be referenced for details and adhered to in any procurement transaction.

B. Acceptance of Gratuities

No NMLA board member and employee of NMLA shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, subcontractors or potential subcontractors.

C. Penalties

Any NMLA board member or employee of NMLA who knowingly and deliberately violates the provisions of these procurement standards is grounds for disciplinary action including up to dismissal by NMLA.

Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with NMLA.