Politique d’achat (procurement) des fonds de recherche « NIH » (National Institutes of Health) financés par le gouvernement américain

Résumé des points importants à respecter

- Procédure de l’inventaire des biens « NIH »
  - Les biens NIH reçoivent des étiquettes d’inventaire (avec code-barre) comme le veut la procédure générale « gérer les immobilisations » (Réf.0082) de l’Université.
  - La liste d’inventaire des biens « NIH » est envoyée annuellement par la comptabilité au titulaire de fonds. Ce dernier la contrôle et confirme son exactitude en la retournant datée et signée à la comptabilité.
  - Une fois par an, le service des inventaires vérifie ‘in situ’ l’exactitude de la liste des biens « NIH » par échantillonnage (le calcul de l’échantillon est fait selon la méthode statistique des quartiles) Tous les comptes-rendus de contrôle font l’objet d’un rapport tenu à disposition de la fiduciaire.

- Les bénéficiaires doivent pouvoir fournir aux autorités américaines les documents d’acquisition (appels d’offres, devis, analyse des prix, ...) lorsque l’acquisition dépasse US$ 100'000.- [cf CFR 45.74.40à48]

- À la fin du projet, le titulaire doit faire un résumé pour le NIH des équipements achetés et dire à quoi il va les affecter. Ce document s'appelle le "Final Inventory". Suite à ceci, le NIH a 120 jours pour décider que faire avec les équipements. [cf OMB Circular A-110 / section 34 Equipment]

Liens

National Institutes of Health (NIH) :
http://www.nih.gov/

US Department of Health & Human Services (HHS) :
http://www.hhs.gov/

Code of Federal Regulations (CFR) :
http://www.gpoaccess.gov/cfr/

Office of Management and Budget (OMB) :
http://www.whitehouse.gov/omb/

Bases légales – normes US (cf ci-après)
1. OMB (Office of Management and Budget) Circular A-110
2. CFR (Code of Federal Regulations) 45.74.40 à 48
34 Equipment

(a) Title to equipment acquired by a recipient with Federal funds shall vest in the recipient, subject to conditions of this section.

(b) The recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute, for as long as the Federal Government retains an interest in the equipment.

(c) The recipient shall use the equipment in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds and shall not encumber the property without approval of the Federal awarding agency. When no longer needed for the original project or program, the recipient shall use the equipment in connection with its other federally-sponsored activities, in the following order of priority:

(i) Activities sponsored by the Federal awarding agency which funded the original project, then

(ii) activities sponsored by other Federal awarding agencies.

(d) During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Federal awarding agency that financed the equipment; second preference shall be given to projects or programs sponsored by other Federal awarding agencies. If the equipment is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal awarding agency. User charges shall be treated as program income.

(e) When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment subject to the approval of the Federal awarding agency.

(f) The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following:

(1) Equipment records shall be maintained accurately and shall include the following information.

(i) A description of the equipment.

(ii) Manufacturer’s serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number.

(iv) Whether title vests in the recipient or the Federal Government.

(v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost.

(vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal Government).
(vii) Location and condition of the equipment and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal awarding agency for its share.

(2) Equipment owned by the Federal Government shall be identified to indicate Federal ownership.

(3) A physical inventory of equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify the Federal awarding agency.

(5) Adequate maintenance procedures shall be implemented to keep the equipment in good condition.

(6) Where the recipient is authorized or required to sell the equipment, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.

(g) When the recipient no longer needs the equipment, the equipment may be used for other activities in accordance with the following standards. For equipment with a current per unit fair market value of $5000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original Federal awarding agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from the Federal awarding agency. The Federal awarding agency shall determine whether the equipment can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the equipment shall be reported to the General Services Administration by the Federal awarding agency to determine whether a requirement for the equipment exists in other Federal agencies. The Federal awarding agency shall issue instructions to the recipient no later than 120 calendar days after the recipient's request and the following procedures shall govern.

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the recipient's request, the recipient shall sell the equipment and reimburse the Federal awarding agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the recipient shall be permitted to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for the recipient's selling and handling expenses.

(2) If the recipient is instructed to ship the equipment elsewhere, the recipient shall be reimbursed by the Federal Government by an amount which is computed by applying the percentage of the
recipient's participation in the cost of the original project or program to the current fair market
value of the equipment, plus any reasonable shipping or interim storage costs incurred.

(3) If the recipient is instructed to otherwise dispose of the equipment, the recipient shall be
reimbursed by the Federal awarding agency for such costs incurred in its disposition.

(4) The Federal awarding agency may reserve the right to transfer the title to the Federal
Government or to a third party named by the Federal Government when such third party is
otherwise eligible under existing statutes. Such transfer shall be subject to the following
standards.

(i) The equipment shall be appropriately identified in the award or otherwise made known
to the recipient in writing.

(ii) The Federal awarding agency shall issue disposition instructions within 120 calendar
days after receipt of a final inventory. The final inventory shall list all equipment acquired
with grant funds and federally-owned equipment. If the Federal awarding agency fails to
issue disposition instructions within the 120 calendar day period, the recipient shall apply
the standards of this section, as appropriate.

(iii) When the Federal awarding agency exercises its right to take title, the equipment shall
be subject to the provisions for federally-owned equipment.

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45 CFR 74.40-48 : Procurement

45 CFR 74.40 -- Procurement standards Sections 74.41 through 74.48 set forth standards for use
by recipients in establishing procedures for the procurement of supplies and other expendable
property, equipment, real property and other services with Federal funds. These standards are
established to ensure that such materials and services are obtained in an effective manner and in
compliance with the provisions of applicable Federal statutes and executive orders. The standards
apply where the cost of the procurement is treated as a direct cost of an award.

45 CFR 74.41 -- Recipient responsibilities
The standards contained in this section do not relieve the recipients of the contractual
responsibilities arising under its contract(s). The recipient is the responsible authority, without
recourse to the HHS awarding agency, regarding the settlement and satisfaction of all contractual
and administrative issues arising out of procurements entered into in support of an award or other
agreement. This includes disputes, claims, protests of award, source evaluation or other matters
of a contractual nature. Matters concerning violation of statute are to be referred to such Federal,
State or local authority as may have proper jurisdiction.

45 CFR 74.42 -- Codes of conduct
The recipient shall maintain written standards of conduct governing the performance of its
employees engaged in the award and administration of contracts. No employee, officer, or agent
shall participate in the selection, award, or administration of a contract supported by Federal
funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when
the employee, officer, or agent, or any member of his or her immediate family, his or her partner,
or an organization which employs or is about to employ any of the parties indicated herein, has a
financial or other interest in the firm selected for an award. The officers, employees, and agents of
the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from
contractors, or parties to subagreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employers, or agents of the recipients.

45 CFR 74.43 – Competition
All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The recipient shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft grant applications, or contract specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient’s interest to do so.

45 CFR 74.44 -- Procurement procedures

45 CFR 74.44(a) -- All recipients shall establish written procurement procedures. These procedures shall provide for, at a minimum, that:
45 CFR 74.44(a)(1) -- Recipients avoid purchasing unnecessary items;
45 CFR 74.44(a)(2) -- Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the recipient and the Federal Government; and
45 CFR 74.44(a)(3) -- Solicitations for goods and services provide for all of the following:
45 CFR 74.44(a)(3)(i) -- A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
45 CFR 74.44(a)(3)(ii) -- Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.
45 CFR 74.44(a)(3)(iii) -- A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
45 CFR 74.44(a)(3)(iv) -- The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
45 CFR 74.44(a)(3)(v) -- The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
45 CFR 74.44(a)(3)(vi) -- Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

45 CFR 74.44(b) -- Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women’s business enterprises, whenever possible. Recipients of HHS awards shall take all of the following steps to further this goal.
45 CFR 74.44(b)(1) -- Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
45 CFR 74.44(b)(2) -- Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.

45 CFR 74.44(b)(3) -- Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.

45 CFR 74.44(b)(4) -- Encourage contracting with consortia of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

45 CFR 74.44(b)(5) -- Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.

45 CFR 74.44(c) -- The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-apercentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.

45 CFR 74.44(d) -- Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by agencies' implementation of E.O.s 12549 and 12689, "Debarment and Suspension." (See 45 CFR part 76.)

45 CFR 74.44(e) -- Recipients shall, on request, make available for the HHS awarding agency, pre-award review, procurement documents such as requests for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:

45 CFR 74.44(e)(1) -- A recipient's procurement procedures or operation fails to comply with the procurement standards in this Part.

45 CFR 74.44(e)(2) -- The procurement is expected to exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently $100,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.

45 CFR 74.44(e)(3) -- The procurement, which is expected to exceed the simplified acquisition threshold specifies a "brand name" product.

45 CFR 74.44(e)(4) -- The proposed award over the simplified acquisition threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.

45 CFR 74.44(e)(5) -- A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the simplified acquisition threshold.

45 CFR 74.45 -- Cost and price analysis

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.
45 CFR 74.46 -- Procurement records
Procurement records and files for purchases in excess of the simplified acquisition threshold shall include the following at a minimum: (a) Basis for contractor selection, (b) justification for lack of competition when competitive bids or offers are not obtained, and (c) basis for award cost or price.

45 CFR 74.47 -- Contract administration
A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

45 CFR 74.48 -- Contract provisions
The recipient shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. The following provisions shall also be applied to subcontracts:

45 CFR 74.48(a) -- Contracts in excess of the simplified acquisition threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

45 CFR 74.48(b) -- All contracts in excess of the simplified acquisition threshold (currently $100,000) shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

45 CFR 74.48(c) -- Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds $100,000. For those contracts or subcontracts exceeding $100,000, the HHS awarding agency may accept the bonding policy and requirements of the recipient, provided the HHS awarding agency has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:
45 CFR 74.48(c)(1) -- A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
45 CFR 74.48(c)(2) -- A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
45 CFR 74.48(c)(3) -- A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as
required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

45 CFR 74.48(c)(4) -- Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."

45 CFR 74.48(d) -- All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by recipients shall include a provision to the effect that the recipient, the HHS awarding agency, the U.S. Comptroller General, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

45 CFR 74.48(e) -- All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of appendix A to this part, is applicable.

CFR45 : Acquisition de biens [essai de traduction en français]

45 CFR 74.44 - procédures d’acquisition

45 CFR 74.44 (a) - Tous les bénéficiaires établiront des procédures d’acquisition écrites. Ces procédures exigeront au minimum que :

1) les bénéficiaires évitent d'acheter des articles inutiles;

2) quand c'est nécessaire, une analyse est faite des alternatives d'achat et de bail pour déterminer quelle serait l’acquisition la plus économique et pratique pour le bénéficiaire et le Gouvernement Fédéral

3) des appels d’offre pour les marchandises et services prévoient les choses suivantes :

- (i) une description claire et précise des exigences techniques pour le matériel, le produit ou le service à être procuré.

- (ii) les exigences quel le soumissionnaire doit accomplir et tous les autres facteurs à être utilisé dans l'évaluation d'offres ou des propositions.

- (iii) une description, chaque fois que pratique, des exigences techniques

45 CFR 74.44 (b) - Des efforts véritables seront faits par les bénéficiaires pour utiliser des petites entreprises, des sociétés minoritaires et des entreprises d'affaires de femmes, chaque fois que possible. Les bénéficiaires de subventions HHS prendront toutes les mesures ci-après pour atteindre ce but :

1) Assurent que les petites entreprises, des sociétés minoritaires et des entreprises d'affaires de femmes sont utilisés à la mesure la plus complète praticable.

2) Informer sur de prochaines opportunités disponibles et établissent des délais pour les achats et contrats afin d’encourager et faciliter la participation par des petites entreprises, des sociétés minoritaires et des entreprises d'affaires de femmes.

3) Considèrent dans le processus de contrat si les sociétés rivalisant pour de plus grands contrats ont l'intention de se sous-traiter avec des petites entreprises, des sociétés minoritaires et des entreprises d'affaires de femme.

4) Encouragent à contracter avec les consortiums de petites entreprises, des sociétés minoritaires et des entreprises d'affaires de femme quand un contrat est trop grand pour une de ces sociétés pour traiter individuellement.
5) Utilisent les services et l'aide, aussi appropriée, de telles organisations que l'Administration de Petite entreprise et l'Agence de Développement commercial Minoritaire du Ministère du Commerce dans la appel d’offre et l'utilisation de petites entreprises, des sociétés minoritaires et des entreprises d'affaires de femme.

45 CFR 74.44 (c) - Le type d’instrument d’achat utilisé (p. ex. contrats à prix fixs, contrats à coûts remboursables, bons de commande et contrats d’encouragement) sera déterminé par le bénéficiaire mais sera approprié à l’acquisition particulière et pour promouvoir le meilleur intérêt du programme ou du projet impliqué. Les méthodes de conclusion d’un contrat "cost-plus-a-percentage-of-cost" ou "percentage of construction cost" ne doivent pas être utilisées.

45 CFR 74.44 (d) - Les contrats seront conclus seulement avec les fournisseurs qui possèdent la capacité potentielle de produire avec succès sous les conditions générales de l’acquisition proposée. On prendra en considération des éléments tels que l'intégrité du fournisseur, les rapports d'exécutions passées, les ressources financières et techniques ou l'accessibilité à d'autres ressources nécessaires.

45 CFR 74.44 (e) - Les bénéficiaires rendront disponible sur demande pour le HHS la subvention de l'agence, l'examen de pré prix d’adjudication, les documents d’acquisition comme des appels d'offres ou les invitations pour des offres, devis indépendants, etc, quand n'importe laquelle des conditions suivantes s'applique :

1) La procédure d'acquisition du bénéficiaire échoue à respecter les normes d'acquisition pour l'opération.
2) L'acquisition au-dessus du seuil d'acquisition simplifié fixe à 41 U.S.C. 403 (11) (actuellement 100,000 $) doit être exécutée sans appel d’offres ou seulement une offre est reçue en réponse à un appel d’offres.
3) L'acquisition, que l'on s'attend excéder le seuil d'acquisition simplifié spécifient un produit "de marque".
4) Le prix d’adjudication proposé au-dessus du seuil d'acquisition simplifié est attribué à un autre soumissionnaire que celui au prix apparemment plus bas lors d’une acquisition d’offre scellée.
5) Une modification de contrat proposée change le périmètre d’un contrat ou augmente la somme de contrat de plus que la somme du seuil d'acquisition simplifié.

45 CFR 74.45 - Analyse des coûts et prix
Une analyse des coûts/prix sera faite et documentée pour chaque acquisition. L'analyse des prix (inclus les remises et escomptes) peut être accomplie de façon diverses (comparaison des prix des soumissions, comparaison avec le cours du marché ou indices semblables).

45 CFR 74.46 - Rapports d'Acquisition
Les rapports d’acquisition et dossiers d’achats pour les acquisitions au-dessus du seuil d'acquisition simplifié incluront au minimum les éléments suivants :
(a) la base pour la sélection des contractants,
(b) la justification en l'absence de concurrence lorsque les offres concurrentielles ne sont pas obtenues
(c) la base pour le prix d’adjudication.

45 CFR 74.47 - Administration de contrat
Un système pour l'administration de contrats sera maintenu pour assurer la conformité des termes et conditions des contrats et assurer un suivi adéquat et opportun de tous les achats. Les
bénéficiaires évalueront la l'exécution du fournisseur et documenteront, comme approprié, si les fournisseurs ont respecté les termes, les conditions et le cahier des charges du contrat.

45 CFR 74.48 - Dispositions de contrat
Le bénéficiaire inclura, en plus des dispositions pour définir un accord solide et complet, les dispositions suivantes dans tous les contrats (y compris pour les contrats de sous-traitance) :

45 CFR 74.48 (a) – Les contrats pour les acquisitions au-dessus du seuil d'acquisition simplifié contiendront des dispositions contractuelles ou des conditions qui tiennent compte de solutions administratives, contractuelles, ou légales dans les cas où un fournisseur viole ou contrevient aux termes de contrat et prévoir des actions réparatrices appropriées.

45 CFR 74.48 (b) - Tous les contrats pour des acquisitions au-dessus du seuil d'acquisition simplifié (actuellement 100,000 $) contiendront des dispositions appropriées pour la résiliation par le bénéficiaire, y compris la façon par laquelle la résiliation sera effectuée et la base pour la mise en oeuvre. De plus, de tels contrats décriront des conditions dans lesquelles le contrat peut être résilié pour défaut ainsi que les conditions où le contrat peut être résilié à cause des circonstances au-delà du contrôle du fournisseur.

45 CFR 74.48 (c) - Sauf si exigé par statut, un prix d’adjudication qui exige la conclusion d’un contrat (ou de sous-traitance) pour la construction ou des améliorations d’installation prévoiront pour le bénéficiaire de suivre ses propres conditions touchant aux garanties d'offre, des obligations d’exécution et des obligations de paiement à moins que le contrat de construction ou le contrat de sous-traitance n’excèdent 100,000 $. Pour ces contrats ou contrats de sous-traitance excédant 100,000 $, l’agence HHS qui subventionne peut accepter la politique d'entreposage et les conditions du bénéficiaire, pourvu que l’agence HHS qui subventionne a déterminé que l’intérêt du Gouvernement Fédéral est en juste proportion protégé. Si une telle détermination n’a pas été faite, les conditions minimales seront comme suit :
1) Une offre garantissent de chaque équivalent de soumissionnaire à cinq pour cent du prix offert. "La garantie d'offre" consistera en engagement ferme comme une garantie de soumission, le chèque certifié, ou d'autre instrument négociable accompagnant une offre comme l'assurance que le soumissionnaire, à l'acceptation de son offre, exécutera de tels documents contractuels comme peut être exigé dans le temps indiqué.
2) Une obligation d’exécution de la part du fournisseur pour 100 pour cent du prix forfaitaire. "Une obligation d’exécution" est exécutée en rapport avec un contrat pour garantir l’accomplissement des obligations de tout fournisseur conformément à un tel contrat.
3) Une obligation de paiement de la part du fournisseur pour 100 pour cent du prix forfaitaire. "Une obligation de paiement" est exécutée en rapport avec un contrat pour assurer le paiement comme exigé selon la loi de toutes les personnes fournissant la main-d'œuvre et le matériel dans l’exécution du travail prévu dans le contrat.
4) Où les obligations sont exigées dans les situations décrites en ceci, les obligations seront obtenus de sociétés tenant les certificats d’autorité comme des cautions acceptables conformément à 31 partie 223 CFR, "des Sociétés de Caution Faisant des affaires avec les États-Unis."

45 CFR 74.48 (d) - Tous les contrats négociés (sauf ceux en-dessous du seuil d'acquisition simplifié) attribué par des bénéficiaires incluront une disposition dans le sens où le bénéficiaire, le HHS la subvention de l'agence, le Général de Contrôleur américain, ou n'importe lequel de leurs représentants dûment autorisés, auront l'accès à n'importe quels livres, documents, des papiers et
les rapports du fournisseur qui sont directement pertinents envers un programme spécifique pour le but de faire des audits, des examens, des extraits et des transcriptions.

45 CFR 74.48 (e) - Tous les contrats, y compris de petits achats, attribués par des bénéficiaires et leurs fournisseurs contiendront les dispositions d'acquisition d'annexe A à cette partie, sont applicable.