

Appendix Section 3

Procurement Compliance

For current Electronic Code of Federal Regulations, please refer to [eCFR :: Home](#)

CDBG GUIDANCE

CONTRACT MGMT CHECKLIST

Grant #	
Grantee	
Preparer	
Date	

In accordance with 2 CFR 200 Subpart D, all grantees must include certain provisions within all contracts entered as a part of the CDBG project. This checklist serves only as a guide; requirements may vary between categories and from project to project.

For all executed agreements submitted to DED, grantee must complete and submit a separate checklist. All checklists must include completed Sections I through IV, contracts for construction must also complete Section V. **NOTE:** for projects involving housing and/or commercial rehabilitation, grantee may be required to include additional provisions and/or clauses related to the program implementation at the local-level (e.g., affordability periods, change of use clauses, etc.) apply.

For more information, see 2 CFR§200.326, CDBG Administration Manual Chapter 7 – Procurement, and the Procurement Procedures & Code of Conduct. A sample bid package for construction contracts is located in Chapter 9 – Construction and Labor Standards. A sample professional services contract (e.g., grant administration, construction and housing management, engineering, planning, etc.) is located in CDBG Manual Chapter 7 – Procurement. A sample bid package for construction contracts is located in Chapter 9 – Construction and Labor Standards.

I. SAM Verification of Firm/Consultant

- Record of verifying status as not excluded/debarred (date must precede contract award)

II. Timing of Agreement

CDBG NOA Date		Date of Execution		Does not violate timing	<input type="checkbox"/>
CDBG ROF Date					

NOTE: Do not enter into contracts for project activities (i.e., non-general administrative) prior to CDBG ROF Date. Date of Execution above is the date the contract is entered. If the grantee and firm sign the contract on separate dates, use the date signed by the grantee.

III. General Administrative Provisions; these provisions are not limited to contracts for 0181 services.

- Names and addresses of the two parties, the grantee and the firm/consultant.
- Citation of the authority of the grantee under which the contract is entered and funding source.
- Effective date of the contract. (Actual Time of Performance listed under Section IV.)
NOTE: depending upon the contract, the effective date may not be the same as the date the two parties (i.e., the grantee and firm/consultant) sign and otherwise explicitly specified.
- Procedures for changing, amending, or revising the contract.
- A clause prohibiting a transfer of any interest in the contract by the consultant (e.g., Assignability/Transfer of Interest).
- Records Provision requiring the consultant to maintain records and furnish reports (e.g., Access to Records/Maintenance of Records).
- Conflict of Interest Clause.
- Conditions and terms under which the contract, by either party, may be terminated and remedies for violation/breach of contract (e.g., Termination for Cause/Convenience).
- Names of representatives of grantee and firm acting as a liaison for contract administration.
- Scope of Services:
 - Detailed description of the extent and character of the work to be performed; work must also be consistent with type of services procured and provided.
 - Time of performance and completion of contract services; clear dates for start and completion.
 - Specification of materials or other services to be provided (i.e., maps, reports, etc.).

- Method of Compensation:
 - Provisions for compensation for services, including basis for and frequency of partial payments.
 - Contract is fixed-fee or lump sum (not allowable are cost-plus, percentage of cost, etc.).

IV. Federal Standard Provisions

- Title VI of the Civil Rights Act of 1964 clause.
- Section 109 of the Housing and Community Development Act of 1974 clause.
- Age Discrimination Act of 1975, as amended (42 USC 6101, et. seq.).
- Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794).
- Section 3 compliance clause.

NOTE: Section 3 requirements apply to recipients of CDBG funding exceeding \$200,000 in any fiscal cycle. Requirement for Written Plan applies to contractors/subcontractors with contracts exceeding \$100,000. Section 3 requirements triggered when a project creates need for new employment, contracting, or training opportunities. If funding does not create this need, recipient must still submit reports indicating the requirements were not triggered and any efforts to comply, as appropriate. **If above listed threshold is not triggered, provide an explanatory statement:** Click or tap here to enter text.

- Compliance with Executive Order 11246, as amended.
 - Contractor has 50 or more employees.
 - Non-construction/service contract exceeds \$50,000.

NOTE: Required for service contractors only if the contractor has 50 or more employees and the contract is for more than \$50,000. **If above listed threshold is not triggered, provide an explanatory statement:** Click or tap here to enter text.

- Executive Order 11246, as Amended/Equal Employment Opportunity Provisions.
 - Contractor has 50 or more employees.
 - Construction contract or a non-construction/service contract that exceeds \$50,000.

NOTE: Required for all construction contracts and non-construction/service contracts exceeding \$50,000 for contractors with 50 or more employees. **If above listed threshold is not triggered, provide an explanatory statement:** Click or tap here to enter text.

The following section and listed items are included here as a tool for ensuring compliance. In most cases, DED reviews these records and documents during an onsite monitoring visit.

V. Construction Contract/Labor Standards, if applicable.

- Construction cost exceeds \$2,000 in aggregate.
- Notice of appointment of Labor Standards Officer.
- Labor standards checklist.
- Request for wage determination.
- Copy of bid advertisement.
- Copy of bid package:
 - Project specifications.
 - Copy of wage determination from DED.
 - Statement of terms and conditions.
 - Contractor and subcontractor certification forms.
 - Bid, performance and other bond requirements.
 - HUD 4010 form.
- Contract procurement and award (included for reference only, see Procurement Checklist):
 - Minutes of the bid-opening meeting.
 - Log of bid package recipients and bidders.
 - Check for contractor debarment, including record of verification.
 - Contract must include the same items as the bid package with completed forms.
 - Pre-construction conference report or minutes.
- Copy of notice of contract award.
- Record of submission of LSE7 to DED.
- Written notice to contractor to proceed with work.
- Report of additional classifications and wage rates, if applicable:
 - Report of additional classification (HUD 4230a)
 - Additional classifications and wage rate approval
- Contractor performance records:
 - Reports on job site inspections
 - Weekly payroll reports for each contractor and subcontractor, including evidence of review.
 - Weekly statement of compliance for each contractor/subcontractor.
 - Employee interview reports.
 - Log of payments made to contractor.
- Records of contractor violations, if applicable:
 - Notice of contractor violation
 - Record of resolution
 - Report of wage restitution accomplished
 - Calculation of employee restitution
- Proof of employee restitution, if applicable.

CDBG GUIDANCE PROCUREMENT CHECKLIST

Grant #	
Grantee	
Preparer	
Date	

In accordance with 2 CFR 200 Subpart D, all grantees must follow federal procurement standards as a part of the CDBG project. This checklist serves only as a guide; requirements may vary between categories and from project to project.

For each procurement process undertaken and for all services and/or goods procured as a part of the CDBG project, grantee must complete and submit a separate checklist. All checklists must include completed Section I and, depending on the circumstances, Section II or III.

Grantee is required to procure for professional services unless grantee has an in-house professional, has a history of appointment, or is a member of a development district that is qualified in one of the professional services areas. Procurement prior to CDBG award also requires completion of this checklist, triggering submission of this checklist and associated documentation with Application Exhibit K2.

For more information, see 2 CFR§200.300, CDBG Administration Manual Chapter 7 – Procurement, and the Procurement Procedures & Code of Conduct. A sample bid package for construction contracts is located in Chapter 9 – Construction and Labor Standards.

I. General Requirements for All Undertakings

- Grantee's procedures ensure fair and open competition.
- Local internal controls address conflict of interest considerations. If there exists a clear or potential conflict of interest, provide additional explanation:

[Click or tap here to enter text.](#)

Verify grantee did not engage in loss-leader arrangements:

- Firm or individual submitting a proposal, statement, or bid did neither prepare solicitation nor assist or advise in its development.
- Grantee used a single firm for application preparation and grant administration.
 - Separate procurement processes used.
 - Application preparer or its organization did not assist in process.
- Grantee used a single firm for grant administration and other professional services.
 - Separate procurement processes used.
 - Certified administrator or its organization did not assist in process.

NOTE: A consultant that intends to respond to the RFP/RFQ **cannot participate** in the development or drafting of specifications, requirements, statements of work, or invitations for bids or requests for proposals, including, but not exclusive to, the development of the scoring criteria, the final selection of firms contacted, or the scoring of proposals. (Reference: 2 CFR 200.319(a))

II. In-House – Professional Services and Architectural/Engineering Services

- A. Type of Service (include CDBG Activity Code(s)): [Click or tap here to enter text.](#)
- B. Provide statement on how grantee qualified the professional organization as being excluded from the procurement process for professional services (e.g., appointed through formal process).
[Click or tap here to enter text.](#)
- C. Verify the following:
 - Records of appointment for year of award and two prior years.
 - Copy of applicable Exhibit K (and any required attachments) on file and submitted.
 - K1a – Architect/Engineer
 - K1b – Development District (typically applies *only* for 0181 services)
 - Record of verifying firm's status as not excluded (date must precede contract award)

III. Procurement – Professional Services and Architectural/Engineering Services

- A. Type of Service (include CDBG Activity Code(s)): [Click or tap here to enter text.](#)
- B. Identify Method of Procurement:
 - Competitive Negotiation
 - Competitive Sealed Bids
 - Small Purchase
 - Non-Competitive Negotiation (Sole Source)
- C. Identify Timing of Procurement Related to CDBG Award/Notice of Approval:
 - Conducted **prior to** CDBG NOA
 - Conducted **after** CDBG NOA
- D. Rationale for Method: Provide statement on grantee’s rationale for selecting method.
[Click or tap here to enter text.](#)

NOTE: If grantee procured multiple services (i.e., listed more than one distinct service in a proposal), provide a statement to verify method is consistent with the CDBG Program policy on multiple-services.

SOLE SOURCE NOTE: If method was non-competitive negotiation, grantee must document that only one source could provide the service or item or that competition was determined to be inadequate and have provided such documentation prior to entering associated contract).

- E. Complete the following appropriate section (1, 2, 3, 4, or 5) for this service only as identified under item A (as the instructions indicate, complete a separate checklist for all procurement undertaken).

1. Competitive Negotiation

Generally used for purchase of professional services.

Identify Method of Solicitation for Competitive Negotiation:

- Request for Proposals (RFP); must include cost as a factor.
- Request for Qualifications (RFQ), appropriate and allowable for A/E only. Cost is not a factor.

- Copy of written solicitation (i.e., RFP or RFQ).
 - Clear and accurate description of all services and/or goods sought.
 - Clear and accurate description of all evaluation criteria.
 - Statement that contract amount will be lump sum, fixed-cost, or cost not to exceed (e.g., neither “cost plus a percentage of cost” nor “percentage of construction cost”).
- Copy of publicized or published notice.
- List of firms/individuals solicited directly.
- Record of efforts directed toward solicitation of minority- and women-owned firms.
- Record of specific efforts directed toward Section 3 Business Concerns and Residents.
- List of all proposals or statements received.
 - If less than three proposals received, provide additional explanation:
[Click or tap here to enter text.](#)

NOTE: if only one proposal received, **method “converts” to Non-Competitive/Sole Source** and requires grantee to receive **DED approval** *prior* to entering into a contract.

- Copies of all proposals or statements received.
- Scoring Records
 - Scoresheets for all proposals received, must be complete.
 - Evaluation criteria (for all factors, must match language in solicitation), including:
 - Responsiveness of proposals.
 - Reasonableness of costs.
 - Responsibleness of firms (NOTE: proximity is not a valid reason for selection).

- Selection Records of awarded firm/individual
 - Record verifying status as not excluded/debarred (date must precede contract award).
 - Written statement explaining the basis for selection of firm.
 - Written statement explaining the basis for selection of contract type.
 - Records authorizing selection, if required by local internal controls and/or procedures.
- Denial/award letters; grantee must notify each bidder in writing their status.
- Minutes of the meeting at which the grantee awarded the contract.

2. Competitive Sealed Bids (Formal Advertising)

Must be used for construction projects or large quantities of goods/materials.

- Copy of bid advertisement.
 - Clear and accurate description of all services and/or goods sought.
 - Clear and accurate description of all evaluation criteria.

NOTE: if interviews are a selection factor, advertisement should list this clearly.

 - Statement that contract amount will be lump sum, fixed-cost, or cost not to exceed (e.g., not “cost plus a percentage of cost” or “percentage of construction cost”).
- Copy of publicized or published notice.
- List of firms/individuals solicited directly.
- Record of efforts directed toward solicitation of minority- and women-owned firms.
- Record of specific efforts directed toward Section 3 Business Concerns and Residents.
- List of all bids or statements received; evidence of logging in bids.
 - If less than three proposals received, provide additional explanation:
[Click or tap here to enter text.](#)

NOTE: if only one proposal received, **method “converts” to Non-Competitive/Sole Source** and requires grantee to receive **DED approval** *prior* to entering into a contract.
- Copies of all bids received.
- Bid Opening/Scoring and Selection Records
 - Minutes of bid opening, bid tabulation, and recommendation for award.
 - Scoresheets for all bid received, must be complete.
 - Evaluation criteria (for all factors, must match language in solicitation), including:
 - Responsiveness of proposals.
 - Reasonableness of costs.
 - Responsibleness of firms (**NOTE:** proximity is not a valid reason for selection).

NOTE: if interviews are part of the selection process, advertisement should list this clearly.

 - Record of verifying firm’s status as not excluded (date must precede contract award).
 - Written statement explaining the basis for selection of firm.
 - Written statement explaining the basis for selection of contract type.
 - Records authorizing selection, if required by local internal controls and/or procedures.
- Denial/award letters; grantee must notify each bidder in writing their status.
- Minutes of the meeting at which the grantee awarded the contract.
- Contract must include the same items as the bid package with completed forms.

3. Small Purchase Procedures

Allowable for procurement for the purchase of services or supplies valued at identified threshold.

- Written identification of item(s) procured.
- List of all firms/individuals solicited directly in writing.
 - From at least three qualified sources, grantee obtained price or rate quotations.
 - If less than three proposals received, provide additional explanation:
[Click or tap here to enter text.](#)

NOTE: if only one proposal received, **method “converts” to Non-Competitive/Sole Source** and requires grantee to receive **DED approval** *prior* to entering into a contract.

- Record of efforts directed toward solicitation of minority- and women-owned firms.
- Record of specific efforts directed toward Section 3 Business Concerns and Residents.
- List of all proposals or statements received; if purchase is over \$500, quote must be in writing.
- Written documentation of lowest responsive bidder.
- Denial/award letters; grantee must notify each bidder in writing their status.
- Minutes of the meeting at which the grantee awarded the contract to lowest responsive bidder.

4. Micro Purchase Procedures

Allowable for procurement for the purchase of services or supplies valued at identified threshold. Micro-purchases may be awarded without soliciting competitive quotations if the grantee considers the price reasonable.

- Records evidence grantee’s distribution of micro-purchases equitably among qualified suppliers.

5. Non-Competitive Negotiation/Sole Source

Grantee must have obtained DED approval prior to use of this method, this includes where the chosen method converts to Sole Source. Grantee records document that only one source could provide the service or item, competition was determined to be inadequate or other explanation for use. Where another method “converted” to Sole Source, grantee must maintain the entire record of procurement and DED approval of entering into sole source/non-competitive negotiations.

- Record of DED approval (e.g., email correspondence).