

Appendix Section 3

Procurement Compliance

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Title 2 → Subtitle A → Chapter II → Part 200 → Subpart D → Subject Group

Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart D—Post Federal Award Requirements

PROCUREMENT STANDARDS

§200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered *materials* and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.

§200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, 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 or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities 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 must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of

conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.213 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 43309, July 22, 2015]

§200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is

impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

§200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014; 80 FR 54409, Sept. 10, 2015]

§200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

§200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the

particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) 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.

(c) 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 law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

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.
 - Responsibility 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).