

Procurement requirements for Training for Tomorrow

CDBG recipients/subrecipients may procure a broad range of items and services, including small purchases and/or professional service contracts. On May 19, 1995, Public Law 103-355 replaced 24 CFR 85.36, which had been selected by the CDBG Program for its procurement standards. CDBG has adopted this replacement in its entirety; **EXCEPT the maximum threshold for small purchases shall remain at \$25,000.** Any reference to PL 103-355 herein carries with it this exception. All other aspects of 24 CFR 85 remains in effect.

Entities may use their own procurement procedures, which reflect applicable state and local laws, and regulations **provided** that the procurement conforms to the CDBG specified policy. (The stricter of the two shall apply.) In most cases, the CDBG procurement policy is stricter and the entity must follow the procedure outlined for all phases of the CDBG funded project.

If an entity does not have a written procurement policy, the CDBG policy must be adopted for all phases of the CDBG funded project.

PL 103-355 allows four methods of procurement: small purchases, competitive sealed bids, procurement by competitive proposals, and procurement by noncompetitive proposals. Each of these methods is described below. If the entity has their own written procurement procedures, the stricter of the two methods (local or State) shall be followed.

1. Small Purchases

Formal bid solicitation procedures are not required under the Regulation for the purchase of items that cost less than \$25,000. However, three written quotes should be obtained for all purchases in excess of \$250. What is being purchased, either goods or services, should be clearly written. For purchases of less than \$250, the purchasing officer may obtain informal price quotes by telephone or face-to-face inquiry. Price quote must be obtained from at least three qualified vendors. Prices obtained orally should be documented for the files.

2. Competitive Sealed Bids

Competitive Sealed Bids (formal advertising) are used when the goods or services are expected to be over \$25,000 in cost. The invitation shall be publicly advertised for a period NOT less than three consecutive weeks (21 days) to allow sufficient time prior to the opening of bids. CDBG suggests allowing a period of 7 days between the final advertisement and the designated bid opening. Bids shall be solicited from an adequate number of known suppliers. The invitation, including specifications and attachments, must clearly describe the goods or scope of services required permitting bidders to be responsive to the invitation. All bids must be opened publicly at the time and place stated in the invitation for bids. A firm-fixed price contract award must be made in writing to the responsive bidder whose bid is lowest, most responsible and responsive. All unsuccessful bidders must be notified in writing.

3. Procurement by Competitive Proposals

Procurement by competitive proposals may be used if conditions are not appropriate for the use of formal advertising. This type of procurement is most commonly used for professional services. **Price must be a selection factor in the procurement of services.** Only fixed price (a specified price to be paid when the items or services are delivered and

accepted) or cost-reimbursement (price is usually reimbursed as costs are incurred) may be awarded. When using procurement by competitive proposals, the following requirements apply:

- a. Proposals must be obtained from three or more qualified sources.
- b. A Request for Qualifications/Proposals, which identifies all the factors that will be used to evaluate proposals and qualifications, including the importance that price or cost will play in the selection, must be issued and publicized. A period of at least 7 days to respond to an RFP or RFQ should be allowed.
- c. All proposals received must be evaluated. A written method for evaluation, which includes the significant factors used to determine the contract selection award, must be prepared and publicized along with the Request for Proposals.
- d. The award may be made to the respondent whose proposal would be most advantageous to the recipient, considering prices and other factors identified in the Request for Proposals. The basis for selection must be documented in writing for grant files. See the sample ranking form at the end of this chapter
- e. Unsuccessful respondents must be notified promptly in writing.

4. Procurement by Noncompetitive Proposals

A noncompetitive proposal is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Circumstances under which a contract may be awarded by noncompetitive proposals are limited to the following: (a) after solicitation from a number of sources, competition is determined inadequate; (b) the items or services required are available only from one source; (c) the State authorizes the noncompetitive method; or (d) a public emergency is such that the urgency will not permit a delay beyond the time needed to employ one of the other methods described above. The mere fact that a contractor is performing other consultant services for the grantee is not in itself an adequate justification for a non-competitive proposal award. **DED must approve the method of procurement prior to contract award where fewer than three qualifications /proposals/bids have been obtained.**