

RESOLUTION

2018-09-10-P

A RESOLUTION OF THE CITY COUNCIL OF RANGER, TEXAS, AUTHORIZING THE ADOPTION OF CERTAIN GRANT PROCUREMENT PROCEDURES PERTAINING TO FEDERAL GRANT PROGRAMS ADMINISTERED BY THE GENERAL LAND OFFICE.

WHEREAS, the City Council of Ranger wishes to provide for fair and equitable treatment of all vendors who are interested in and capable of providing services, supplies, or equipment to the City for its purchase and use in administering Community Development Block Grant – Disaster Recovery grant funds;

NOW THEREFORE, BE IT RESOLVED;

That the City of Ranger agrees to adopt and implement the attached Procurement Procedures for use in the implementation and administration of the City's Community Development Block Grant – Disaster Recovery Program.

Passed and approved this 10th day of September 2018.


Savannah Fortenberry
City Secretary




Joe Pilgrim
City Mayor

CITY OF RANGER

FEDERAL GRANT PROCUREMENT POLICY

The City of Ranger generally follows State of Texas procurement law and guidance in the purchasing and contract management of goods and services. Additional policy guidance below addresses federal purchasing requirements as required by 2 CFR 200 pertaining to the expenditure of federal grant funds.

A. Purchase Methods When Using Federal Funds

Five Methods for Procuring with Federal Funds

2 CFR § 200.320 provides for five methods that must be used when making purchases with Federal funds. In some cases, these Federal methods are more restrictive than State requirements; in other cases, the State requirements are more restrictive than these Federal methods. In all cases, the City affirms the more restrictive requirements or methods must be followed when making purchases with Federal funds.

The type of purchase method and procedures required depends on the cost (and type, in some cases) of the item(s) or services being purchased.

- Micro-purchases
- Small purchase procedures
- Sealed bids
- Competitive proposals
- Noncompetitive proposals (sole source)

Micro-Purchases (Purchases up to \$3,000.00)

Federal methods provide for procurement by *micro-purchase*. *Micro-purchase* is defined in 2 CFR § 200.320(a) as a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed \$3,000.00. The micro-purchase method is used in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost.

The City utilizes the micro-purchases method for acquiring supplies or services that do not exceed an aggregate amount of \$3,000.00 if the price is reasonable. The Mayor or designee who is responsible for the Federal award determines if the price is reasonable.

Quotes are not required but encouraged. If quotes are obtained for items under \$3,500.00, they should be kept in the department and attached to the requisition.

Small Purchase Procedures (Purchases between \$3,000.01 and \$149,999.99 in the Aggregate)

The Federal threshold for small purchase procedures is \$150,000. 2 CFR § 200.320(b).

CITY OF RANGER FEDERAL GRANT PROCUREMENT POLICY

Small purchase procedures (as defined in 2 CFR § 200.320[b]) may be used in those relatively simple and informal procurement methods for securing non-personal contracted services, supplies, or other property that do not cost more than \$149,999.99.

For purchases funded from *local funds*, to obtain the most competitive price, the City, may, at its option, obtain price quotes for items costing less than \$150,000. Unlike the mandatory competitive procurement described for purchases over \$150,000, if an item to be paid from local funds costs less than \$150,000, the City may utilize price quotations or competitive procurement process (purchasing cooperatives, sole source, an existing RFP/bid or a new RFP/bid) to stimulate competition and to attempt to receive the most favorable pricing.

However, if using *State or Federal funds* to purchase goods or services, *price or rate quotations must be obtained* from an adequate number of qualified sources for all purchases between \$3,000.01 and \$49,999.99 or use the competitive procurement process. The City must obtain more than one price or rate quote unless using a purchasing cooperative, existing Bid/RFP or sole source vendor, in which case, the prices have already been awarded. If purchasing from a purchasing cooperative or existing Bid/RFP, the departments can elect to obtain only one quote to purchase the goods or services although it is recommended to obtain more than one quote. Such price or rate quotations may be obtained orally and/or documented in writing, and the City must demonstrate that price or rate quotations were obtained from an adequate number of qualified sources.

Purchases \$150,000 or More in the Aggregate

According to Texas law, one of the following competitive methods must be used for purchases of \$150,000 or more in the aggregate:

- (1) competitive bidding for services other than construction services;
- (2) competitive sealed proposals, for services other than construction services;
- (3) a request for proposals, for services other than construction services;
- (4) an interlocal contract;
- (5) a method provided by Chapter 2269, Government Code, for construction services;
- (6) the reverse auction procedure as defined by Section 2155.062(d), Government Code; or
- (7) the formation of a political subdivision corporation under Section 304.001, Local Government Code.

In addition, one of the three following methods must be used, depending on the circumstance described below, when purchasing with Federal funds: sealed bids (formal advertising); competitive proposals; or noncompetitive proposals (sole source).

Sealed Bids (Formal Advertising)

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Bids are publicly solicited and a *firm fixed-price contract* (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to 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 following conditions apply:

- A complete, adequate, and realistic specification or purchase description is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- 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.

If sealed bids are used, the following requirements apply:

- 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. The invitation for bids must be publicly advertised.
- 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.
- All bids will be opened at the time and place prescribed in the invitation for bids. The bids must be opened publicly.
- A firm fixed-price contract award must 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. Any or all bids may be rejected if there is a sound documented reason.

Competitive Proposals

A competitive proposal is normally used with more than one source submitting an offer, and either a *fixed price* or a *cost-reimbursement* type contract is awarded. (A *cost reimbursement contract* reimburses the contractor for actual costs incurred to carry out the contract.) Competitive proposals are generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

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

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- Proposals must be solicited from an adequate number of qualified sources.
- The City must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.

When using Federal funds, the City 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.

Noncompetitive Proposals (Sole Sourcing)

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used when using Federal funds only when one or more of the following circumstances apply:

- The item is available only from a single source and an equivalent cannot be substituted. This must be documented.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- After solicitation of a number of sources, competition is determined inadequate.

Additionally, *State* requirements related to sole source purchasing are, in some ways, more restrictive. In addition to the Federal requirements above, sole source purchases must meet established criteria:

- Identification and confirmation that competition in providing the item or product to be purchased is precluded by the existence of a patent, copyright, secret process or monopoly;
- A film, manuscript, or book;
- A utility service, including electricity, gas, or water; and
- A captive replacement part or component for equipment.

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According to State requirements, sole source does not apply to mainframe data-processing equipment and peripheral attachments with a single item purchase price in excess of \$15,000.

In this case, the City must document why only this product can meet their needs and that it is not available from any other vendor. In all cases, the City will obtain and retain documentation from the vendor which clearly delineates the reasons which qualify the purchase to be made on a sole source basis.

Cost/Price Analysis for Federal Procurements in Excess of \$150,000

In accordance with the requirements in 2 CFR § 200.323, the City will make independent estimates of the goods or services being procured before receiving bids or proposals to get an estimate of how much the goods and services are valued in the current market.

To accomplish this, before bids and proposals are received, the City conducts either a price analysis or a cost analysis, depending on the type of contract, in connection with every procurement with Federal funds in excess of \$150,000. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation; however, the City will come to an independent estimate prior to receiving bids or proposals, 2 CFR § 200.323(a).

Accordingly, the City performs a cost or price analysis in connection with every Federal procurement action in excess of \$150,000, including contract modifications, as follows:

Cost Analysis → Non-competitive Contracts: A cost analysis involves a review of proposed costs by expense category, and the Federal cost principles apply, which includes an analysis of whether the costs are allowable, allocable, reasonable, and necessary to carry out the contracted services. In general,

- A cost analysis must be used for all non-competitive contracts, including sole source contracts.
- The Federal cost principles apply.
- All *non-competitive contracts* must also be awarded and paid on a *cost-reimbursement basis*, and not on a fixed-price basis.
- In a cost-reimbursement contract, the contractor is reimbursed for reasonable actual costs incurred to carry out the contract.
- Profit must be negotiated as a separate element of the price in all cases where there is no competition.

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When performing a *cost analysis*, the City negotiates profit as a separate element of the price. To establish a fair and reasonable profit, consideration is 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, 2 CFR § 200.323(b).

Price Analysis → Competitive Contracts: A *price analysis* determines if the lump sum price is fair and reasonable based on current market value for comparable products or services. In general,

- A price analysis can only be used with *competitive* contracts and is usually used with fixed-price contracts. It cannot be used with non-competitive contracts.
- Compliance with the Federal cost principles is not required for fixed-price contracts, but total costs must be reasonable in comparison to current market value for comparable products or services.
- A competitive contract may be awarded on a fixed-price basis or on a cost-reimbursement basis. If awarded on a cost-reimbursement basis, the Federal cost principles apply and costs are approved by expense category, and not a lump sum.

Costs or prices based on *estimated* costs for contracts are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable costs under the Federal cost principles.

B. Contract Administration

The City maintains the following oversights to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders, 2 CFR § 200.318(b). The City Mayor overseeing the Federal award is responsible for monitoring contractor performance. The Mayor or designee will compare actual performance of contract against projected performance and have the contractor explain any differences. They may also compare fees paid to date to contractor versus how far along the contractor is in performing the contractual duties. The Mayor or designee may establish surveys of those directly benefitted by the contractor's work for feedback purposes.

To ensure proper administration of contracts and any subgrants that may be awarded by the City, the City uses the following *guidelines* to determine whether each agreement it makes for the disbursement of Federal funds is a *contract*, whereby funds are awarded to a *contractor*, or a

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subaward, whereby funds are awarded to a *subrecipient*. The substance of the relationship is more important than the form of the written agreement, 2 CFR § 200.330.

Subawards/Subgrants

A *subaward/subgrant* is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. The City determines who is eligible to receive what Federal assistance, and a *subrecipient/subgrantee*:

- Has its performance measured in relation to whether objectives of a Federal program are met
- Has responsibility for programmatic decision making
- Is responsible for adhering to applicable Federal program requirements, and
- In accordance with the subgrant agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the City.

Contracts

A *contract* is for the purpose of obtaining goods or services for the City's own use and creates a procurement relationship with the contractor.

A contractor:

- Provides goods and services within normal business operations
- Provides similar goods or services to many different purchasers
- Normally operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the Federal program, and
- Is not subject to compliance requirements of the Federal program as a result of the contract, though similar requirements may apply for other reasons

Documentation for Contracts

The City maintains the following written documentation, at a minimum, for each contract paid with Federal funds:

1. A copy of the written, signed contract/agreement for services to be performed
2. The rationale or procedure for selecting a particular contractor
3. Evidence the contract was made only to a contractor or consultant possessing the ability to perform successfully under the terms and conditions of the contract or procurement

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4. Records on the services performed – date of service, purpose of service – ensuring that services are consistent and satisfactorily performed as described in the signed contract or purchase order
5. Documentation that the contractor was not paid before services were performed, and
6. Records of all payments made (such as a spreadsheet or report generated from the general ledger), including the total amount paid to the contractor

Payment Only After Services Are Performed

For both State and Federally funded contracts, it is not permissible under Texas law to pay a contractor or consultant in *advance* of performing services. Advance payment to contractors is considered “lending credit” to the contractor and is prohibited under the *Texas Constitution*, Article 3, §§ 50 and 52. For ongoing services that occur monthly, payment can be made at the end of every month (based on a proper invoice submitted by the contractor and verification of work performed) for services performed during the month, or some other similar arrangement.

Consultants and contractors will not be paid without having a properly signed and dated contract or other written agreement in place which clearly defines the scope of work to be performed, the beginning and ending dates of the contract, and the agreed-upon price. The contract should also include a description of the payment procedures.

Upon performance of services (at contract milestones or upon completion of services), the contractor is required to submit an *invoice* to the City that contains at a minimum the following:

- a clear identification of the contractor/consultant, including name and mailing address
- a corresponding contract (or written agreement) number, if applicable
- the dates (beginning and ending date) during which the services were performed (i.e., billing period)
- a description of the services/activities completed during the billing period
- the total amount due to the contractor for the billing period

By submitting a properly-prepared invoice, the contractor is certifying that it is true and correct.

Verification of Receipt of Goods and Services Provided by Contractors

If the purpose of the contract or purchase order is to deliver goods, the City will designate the appropriate staff to verify that the quantity and quality of goods were as specified in the contract/purchase order. The receiving report and procedures used in all other State/local purchases will be used for all Federal purchases.

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If the purpose of the contract is to purchase services, the Purchasing Specialist, along with the requesting Department Director/Administrator will verify that the quality and scope of services were received as specified in the contract.

Prompt Payment to Vendors/Contractors

The City pays all vendors/contractors within thirty (30) days of receipt of a proper invoice and the receipt of the goods or services in accordance with the Texas Prompt Payment Act, Government Code, Chapter 2251, Subchapter A, for all contractors, and Property Code, Chapter 28 for Construction Contractors.

C. General Land Office Requirements for CDBG-DR

All procurement funded by Community Development Block Grant -Disaster Recovery (CDBG-DR) grant funds must contain the completed GLO-CDR Procurement Checklist in the file for each solicitation.

TEXAS GENERAL LAND OFFICE



COMMUNITY DEVELOPMENT & REVITALIZATION
PROCUREMENT GUIDANCE FOR SUBRECIPIENTS
UNDER 2 CFR PART 200 (UNIFORM RULES)

The Texas General Land Office Community Development & Revitalization (GLO-CDR) is the state agency designated by the Governor and responsible to the U.S. Department of Housing and Urban Development (HUD) for the grant administration of this funding, herein referred to as the “grantee”. Eligible applicants (city and county governments) located within, or performing activities within the Texas counties as declared in DR-4223 and/or DR-4245, are herein referred to as “subrecipient” and are the desired audience of the guidance.

This guidance is designed to help make better use of your Community Development Block Grant Disaster Recovery (CDBG-DR) resources and to avoid common procurement pitfalls in managing your grant.

The procurement checklist will assist subrecipients of CDBG-DR funds provided by HUD to comply with the federal procurement requirements and reasonably ensure the allowability of eligible program expenses.

This checklist is intended to provide general guidance only and does NOT provide a detailed explanation of the federal procurement requirements – it is not intended to serve as legal advice and GLO-CDR makes no guarantee that adherence to this checklist will result in full reimbursement of eligible expenses.

To understand the requirements fully, the user should review the provisions of 2 CFR § 200.318 – 326 and Appendix II to Part 200, which are the source of these requirements.

Contact your servicing attorney or legal counsel with any questions on the application of these standards. Our guidance is limited to the content within 2 CFR § 200.318 – 326 and Appendix II to Part 200.

Grant Administrator and Engineer Procurement

GLO-CDR will allow a subrecipient to use a single vendor to both assist in the preparation of an application and to perform work under the grant. The vendor procurement should clearly identify preparation of an application and grant administration services within the solicitation document. The solicitation must take place prior to the initiation of the application process and comply with 2 CFR 200.318 – 200.326.

Procurement File Maintenance

The Procurement Checklist must be filled out per the prescribed procurement methodology used for each solicitation. This checklist must be maintained with each procurement file. Subsequent sealed bid or competitive proposal procurement activities will require the following documents be submitted to GLO-CDR:

- Procurement Checklist
- RFP/RFQ as applicable
- Listing of Bid Proposals/Summary of Scoring Criteria
- Grantee approval of selected vendor/winning bid
- Contract

GLO-CDR PROCUREMENT CHECKLIST

These documents must be provided to identify the actions taken to ensure procurement activities. GLO-CDR will not review or approve the compliance of procurement activities as they occur. GLO-CDR is available to provide technical assistance during the phases of the procurement process.

Note: Non-competitive or sole-source procurements require notification to and authorization by GLO-CDR.

Monitoring

Monitoring reviews to determine procurement compliance are performed independently of the process noted above as part of GLO-CDR's Subrecipient Monitoring Plan. GLO-CDR will monitor to the standards of 2 CFR 200.318 – 200.326 or state or local procurement law and policies if they are more restrictive.

Criteria

Sections 22 Procurement of the Federal Register, Vol. 81, No. 117 (June 17, 2016) for the 2015 allocations of Public Law 114–113 and Federal Register, Vol. 81, No. 224 (November 21, 2016) for the 2016 allocations of Public Law 114–223 and 245, combined with 24 CFR Part 570, direct the state to establish requirements for policies and procedures for units of general local government based on full and open competition (e.g., small purchase, sealed bids/formal advertising, competitive proposals).

GLO-CDR has established that subrecipients must follow the procurement methods as outlined in 2 CFR 200.318 – 200.326. This includes the requirement to follow state and local procurement law and policies as prescribed by 2 CFR 200.318(a) as well as the additional requirements stated in 2 CFR Part 200.

Subrecipients should update local procurement policies and procedures to correspond with the procurement and contract requirements of 2 CFR 200.318 – 200.326 for CDBG-DR funding.

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 1)
§200.318 General procurement standards

Task	Yes	No	N/A	Notes
1.1 Do you maintain documented policies and procedures that reflect applicable state, local, and tribal laws and regulations and provide that they conform to applicable federal law and the standards identified in this part? § 200.318(a)				
1.2 Do you maintain contract oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders? § 200.318(b)				
1.3 Do you maintain a written standard of conduct addressing a real or apparent conflict of interest, both direct and indirect, and governing the actions of employees engaged in the selection, award, and administration of contracts to ensure conflicts of interest are identified, substantiate nominal financial interests or value, and disciplinary actions for violations of the standards?				
1.4 Do you avoid acquisition of unnecessary or duplicative items? Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. § 200.318(d)				
1.5 Is the contract being awarded to a responsible contractor possessing the ability to perform successfully under the terms and conditions of the proposed procurement, considering such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources? § 200.318(h) and §200.213 (Suspension and Debarment)				
1.6 Did you determine no other contract other than time and materials type ¹ contract is suitable, and include a price ceiling that if exceeded, the contractor exceeds at their own risk? § 200.318(j)				
1.7 Do you have more oversight being asserted for time and material contracts to obtain reasonable assurance that the contractor is maintaining efficient methods and effective cost controls related to price ceiling related risks? § 200.318(j)				
1.8 Do you responsibly resolve any related protests, disputes, or claims arising out of procurements? § 200.318(j)				

¹ A time and material's contract is defined as the sum of (i) the actual cost of materials and (ii) direct labor hours charged at fixed hourly rates that reflect wages, general administrative expenses, and profit.

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 2) §200.319 Competition

Task		Yes	No	N/A	Notes
2.1	Procurement transactions cannot be conducted in a manner that does not provide full and open competition. Does the procurement involve any of the following? § 200.319(a)				
	<ul style="list-style-type: none"> Placing unreasonable requirements on firms for them to qualify to do business? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> Requiring unnecessary experience and excessive bonding? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> Noncompetitive pricing practices between firms or between affiliated companies? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> Noncompetitive contracts to consultants that are on retainer contracts? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> Organizational conflicts of interest? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> 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? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> Any arbitrary action in the procurement process? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.2	Was the contractor that is bidding on the contract also involved with developing or drafting the specifications, requirements, statement of work, invitation for bids or request for proposals? (If so, that contractor must be excluded from competing for such procurements) § 200.319(a)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.3	Note: Procurement MUST be conducted in a manner that prohibits the use of statutorily or administratively imposing state or local geographical preferences in the evaluation of bids or proposals.				
2.4	Do you have written procurement procedures that ensure that all solicitations comply with the following? § 200.319(c)				
	<ul style="list-style-type: none"> Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.5	If you are using a prequalified list of persons, firms, or products to acquire goods and services, did you consider the following? § 200.319(d)				
	<ul style="list-style-type: none"> Is the list current? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> Does the list include enough qualified sources to ensure maximum open and free competition? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> Were any potential bidders precluded from qualifying during the solicitation period? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 3) §200.320 Method of Procurement

Task	Yes	No	N/A	Notes
3.1 Which of the following acceptable methods of procurement are you using?				
Micro-purchase procedures² § 200.320(a)				
<ul style="list-style-type: none"> To the extent practicable, are you distributing micro-purchases equitably among qualified suppliers? 				
Does the aggregate dollar of supplies or services exceed the micro-purchase threshold of \$3,000, or \$2,000 for construction contracts subject to the Davis-Bacon Act?				
Small purchase procedures³ § 200.320(b)				
<ul style="list-style-type: none"> Did you obtain price or rate quotations from an adequate number of qualified sources? 				
Sealed bids⁴ §200.320(c)				
<ul style="list-style-type: none"> Is a complete, adequate, and realistic specification or purchase description available for bidders? 				
<ul style="list-style-type: none"> Are two or more responsible bidders willing and able to compete effectively for the business in relation to the bid advertisement? 				
<ul style="list-style-type: none"> Can the procurement lend itself to a firm fixed price contract and the selection of the successful bidder be made principally based on price? 				
<ul style="list-style-type: none"> Did you solicit bids from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids? 				
<ul style="list-style-type: none"> Was the invitation for bids publicly advertised? 				
<ul style="list-style-type: none"> Did the invitation for bids include any specifications and pertinent attachments, and define the items or services for the bidder to properly respond? 				
<ul style="list-style-type: none"> Did you publicly open all bids at the time and place prescribed in the invitation for bids? 				
<ul style="list-style-type: none"> Did you award a firm fixed price contract award in writing to the lowest responsive and responsible bidder? 				

² Micro-purchases are purchases below \$3,000, and may be awarded without soliciting competitive quotations if you consider the price to be reasonable.

³ Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that does not cost more than the Simplified Acquisition Threshold (i.e. \$150,000), or (2) whatever amount State or local procurement rules set as the small purchase threshold – if more restrictive than the federal threshold.

⁴ Sealed 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.

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 3)
§200.320 Method of Procurement CONTINUED

Task	Yes	No	N/A	Notes
Sealed bids (continued)				
<ul style="list-style-type: none"> If any bids were rejected, was there a sound documented reason supporting the rejection? 				
3.2 Procurement by competitive proposals⁵ If this method is used, the following requirements apply: § 200.320(d)				
<ul style="list-style-type: none"> Did you publicize the Requests for Proposals (RFPs) and identify all evaluation factors and their relative importance? 				
<ul style="list-style-type: none"> Did you solicit proposals from an adequate number of qualified sources? 				
<ul style="list-style-type: none"> Did you have a written method for conducting technical evaluations of the proposals received and for selecting recipients? 				
<ul style="list-style-type: none"> Did you award the contract to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered? 				
<p>Note: You 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.</p>				
3.3 Procurement by noncompetitive proposals⁶ Do one or more of the following circumstances apply? § 200.320(f)				
<p>Note: When only one bid is received in response to a competitive bid solicitation, you do not have price competition. If you decide to award on the basis of a single submitted bid price, without negotiation, you must: 1) justify the price is fair and reasonable; 2) compare the bid price to your own in-house estimate or engineers estimate and past prices paid for the same or substantially similar item(s) in the past; 3) obtain information from the marketplace; 4) obtain a complete cost breakdown; 5) perform a cost analysis of the proposed price and ; 6) document the rationale for the award decision and place in the procurement file.</p>				
<ul style="list-style-type: none"> The item is available only from a single source. 				
<ul style="list-style-type: none"> The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation. 				

GLO-CDR PROCUREMENT CHECKLIST

<ul style="list-style-type: none"> The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity. 				
<ul style="list-style-type: none"> After solicitation of several sources, competition is determined inadequate. 				

⁵ Procurement by 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.

⁶ Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one (or an improperly limited number of) source(s).

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 4)

§200.321 Contracting with Small and Minority Businesses, Women’s Business enterprises, and Labor Surplus Area Firms.

Task	Yes	No	N/A	Notes
4.1 You must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises and labor surplus area firms are used when possible. § 200.321(a) Does your procurement include the following? § 200.321(b)				
<ul style="list-style-type: none"> Do you place qualified small and minority businesses and women’s business enterprises on solicitation lists? 				
<ul style="list-style-type: none"> Do you assure that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources? 				
<ul style="list-style-type: none"> Do you divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises? 				
<ul style="list-style-type: none"> Did you establish delivery schedules where the requirement permits, which encourages participation by small and minority businesses, and women’s business enterprises? 				
<ul style="list-style-type: none"> When appropriate, did you use the services and assistance of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce? 				
<ul style="list-style-type: none"> Do you require the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above? 				

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 5) §200.323 Contract Cost and Price

	Task	Yes	No	N/A	Notes
5.1	<p>Did you conduct a cost or price analysis about every procurement action more than the Simplified Acquisition Threshold including contract modifications? § 200.323(a)</p> <p>Note: You must perform a cost or price analysis relating to every procurement action more than the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis are dependent on the facts surrounding the procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals. 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 under Subpart E—Cost Principles. You may reference its own cost principles that comply with the Federal cost principles.</p>				
5.2	<p>Did you 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? § 200.323(b)</p> <p>Note: You 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. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.</p>				

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 6) §200.325 Bonding Requirements

Task	Yes	No	N/A	Notes
6.1 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 provided that the Federal awarding agency or pass-through entity has decided that the Federal interest is adequately protected. If such a determination has not been made, does the procurement include the following?				
<ul style="list-style-type: none"> • A bid guarantee⁷ from each bidder equivalent to five percent of the bid price? § 200.325(a) 				
<ul style="list-style-type: none"> • A performance bond⁸ on the part of the contractor for 100 percent of the contract price? § 200.325(b) 				
<ul style="list-style-type: none"> • A payment bond⁹ on the part of the contractor for 100 percent of the contract price? § 200.325(c) 				

⁷ 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.

⁸ A performance bond is one executed relating to a contract to secure fulfillment of all the contractor's obligations under such contract.

⁹ A payment bond is one executed relating to 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.

GLO-CDR PROCUREMENT CHECKLIST

PROCEDURES STANDARDS AND GUIDANCE FOR SUBRECIPIENTS (Section 7)

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

7.1	<p>In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering Appendix II to Part 200. As stated previously in this document, to understand the requirements fully, please review the provisions of Appendix II to Part 200 in the Code of Federal Regulations.</p> <ul style="list-style-type: none"> • Contracts for more than the Simplified Acquisition Threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provided for such sanctions and penalties as appropriate. • Contracts more than \$10,000 must address termination for cause and for convenience by the non-Federal entity including how it will be affected and the basis for settlement. • Contracts that meet the definition of “federally assisted construction contract” must include the equal employment opportunity clause. • Construction contracts more than \$2,000 must include a provision for compliance with the Davis-Bacon Act. • Contracts more than \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 W.S.C 3702 and 3704. • Contracts entered into with a small business firm or nonprofit organization and the Federal award meets the definition of “funding agreement”, must comply with the requirements of 37 CFR Part 401. • Contracts more than \$150,000 must contain a provision that requires the non-Federal award to agree to comply with the Clean Air Act and the Federal Water Pollution Control Act. • Contracts must not be entered into with parties listed on the governmentwide exclusions in the System for Award Management (SAM). • Contractors that apply or bid for an award more than \$100,000 must file the required certification regarding the Byrd Anti-Lobbying Amendment. • Contracts must include provisions regarding section 6002 of the Solid Waste Disposal Act. • Contracts must include a Section 3 clause, if funded by the Department of Housing and Urban Development (HUD). The Section 3 program requires recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents about projects and activities in their neighborhoods. • Contractors must allow access to any books, documents, papers, or records of the project by the City, State, Federal agencies, and the Comptroller General of the United States. Records must be maintained for five years after the Grantee formally closes out each program.
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