

PROCUREMENT 101 BRIEF



CDBG-DR grantees and subrecipients procuring goods and services with their grant funds must ensure that they are following all program procurement statutory and regulatory requirements. The urgency in post-disaster recoveries often leads state and local officials to work to quickly restore infrastructure, public services, and help private companies and citizens make repairs. However, grantees and subrecipients that do not follow all CDBG-DR program requirements may be forced to repay Federal funds. The rules are different for states receiving CDBG-DR funds directly from HUD, compared with those for local governments; however, the overarching principals of ensuring full and open competition remain the same.

Guiding Principles

1. Ensure fair and open competition.
2. Adhere to the current regulations and related advisories.
3. Comply with the most stringent procurement standards, be it local or state.
4. Include standards of conduct for employees.
5. Prohibit conflicts of interest.
6. Understand any additional requirements established through the CDBG-DR appropriations act or accompanying Federal Register Notice.



Application of Federal Regulations

States may comply with these financial requirements in one of three ways:

- The State may use its own fiscal and administrative requirements applicable to its own funds (24 CFR 570.489(d)(2)(i)); or
- The State may adopt new fiscal and administrative requirements (24 CFR 570.489(d)(2)(ii)); or
- Apply the principles of 2 CFR 200.318-326.

Tips for an Effective Procurement Policy

The first step in managing the procurement process is developing and implementing a written Procurement Policy. The essence of “good procurement” for all grantees can be summarized as follows:

- Identify and clearly specify standards for the goods or services the grantee or subrecipient wants to obtain;
- Seek competitive offers to obtain the best possible quality at the best possible price;
- Use a written agreement that clearly states the responsibilities of each party;
- Ensure the fair and equitable treatment of all bidders and potential bidders;
- Keep good records; and
- Have a quality assurance system that helps the grantee or subrecipient get what it pays for.



Key Point

A Procurement Policies and Procedures manual should be adopted prior to soliciting bids or pricing, incurring costs, and entering into any contracts.

Minimum Policies Requirements

The rules are different for states receiving CDBG-DR funds directly from HUD, compared with the rules for local governments receiving their funds directly from HUD; however, the overarching principals of ensuring full and open competition remain the same. **States must follow the same procedures they use for other procurements** in a written Procurement Policy. States must also establish procurement policies and procedures for their local governments and ensure their compliance. In addition, if a State is utilizing its existing procurement policies, it must ensure that all procurements follow those procedures.

Prohibitive Practices

 **Prohibition on Cost Plus a Percentage of Cost (CPPC) Pricing** (2 CFR 200.323). Federal procurement requirements do allow for Time and Material (T&M) type contracts, but only after a defensible and properly documented determination has been made that:

- No other contract is suitable; and,
- The contract includes a ceiling price that the contractor exceeds at its own risk.

 **Prohibition on Practices that Restrict Full and Open Competition** (2 CFR 200.319). Examples of situations considered restrictive of competition:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or
- between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;

Updates that Streamline and Consolidate

In recent years, Federal administrative requirements and cost principles governing grants – including procurement requirements – was consolidated and codified at 2 CFR Part 200.

The vast majority of the requirements of prior regulations and circulars were fully incorporated into Part 200 – but a few important changes were made.

Check out an annotated version on procurement regulations from 2 CFR Part 200 in the Appendix of Buying Right found [here](#):

Common Audit Finding

One of the key requirements for ensuring CDBG funds are utilized appropriately is to follow procedures that result in the purchase of goods and services at a fair and reasonable price. Failure to complete cost and price analysis and failure to document cost and price analysis are the most common audit findings of CDBG-DR grantees. This is true for small purchases like hand tools and for large construction contracts. Keeping this principle in mind and following written procurement procedures will support the appropriate use of federal funds and minimize questions after the purchase. However, the effort put into cost and price analysis will vary based on the size of the purchase and the method of procurement. The regulations governing Cost and Price Analysis are found at 2 CFR 200.323.