

COUNTY OF HUMBOLDT  
COMMUNITY DEVELOPMENT SERVICES DEPARTMENT  
ECONOMIC DEVELOPMENT DIVISION

Subject: **Procurement Policy**

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**A. INTRODUCTION**

The purpose of this policy is to provide information about how the Community Development Services Department of the County of Humboldt (herein after called "CDS") will handle the procurement of supplies, equipment, and services when Federal funds are used. The CDS will carry out procurement activities that are in accordance with the requirements of 24 CFR 92.356 and 24 CFR Part 85.36.

The standards and procedures for this procurement policy are intended to ensure that supplies, equipment, construction, and other services acquired in whole or part with Federal funds are obtained as efficiently and economically as possible and procured in a manner that provides, to the maximum extent practical, open and free competition.

Solicitations will explain all the requirements that the bidder/offeror has to meet for his or her bid/offer to be evaluated by the CDS. Solicitations for goods and services will be based on a clear and accurate description of the material, product, or service to be procured, and cannot contain features which unduly restrict competition.

Awards are to be made to the bidder/offeror whose bid/offer is responsive to a solicitation and is most advantageous to the CDS, with price and other factors considered. Any and all bids may be rejected when it is in the best interest of the CDS. The CDS will ensure that the award is made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the 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.

**B. CODE OF CONDUCT FOR PROCURING GOODS AND SERVICES**

No employee, officer or agent of the CDS or subcontractor shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the contract would be for one of the following:

1. The employee, officer or agent;
2. Any member of his immediate family; or
3. His or her partner.

The CDS or subcontractor, which employs, or is about to employ, any of the above, or has a financial or other interest in the firm selected for award, must disclose this immediately. If the amount of the financial interest is not substantial, the CDS may allow this after review by the County attorney and approval by the funding agency.

The CDS's or subcontractor's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or

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parties to agreements. In the event that the gift was unsolicited and of nominal intrinsic value, the CDS D may allow the employee to keep the item.

The CDS D or the subcontractor’s officers, employees, or agents may impose penalties, sanctions, or other disciplinary actions for violations of these standards.

**C. CONFLICT OF INTEREST**

The CDS D shall adhere to the conflict of interest provisions in 24 CFR Part 92.356, as well as those in 24 CFR Parts 85.36(b)(3) and 84.42. Subcontractors hired to perform administrative tasks cannot be the developers or owner of the proposed projects, without prior approval from HUD or HCD. Likewise, any person or entity exercising any function in connection with the Federal funds cannot have a financial interest in the contract, subcontract, or agreement related to the HOME-assisted activity, during their tenure or one-year after their tenure.

**D. COST PRICE/ANALYSIS & CONTRACT PRICING**

The CDS D and its subcontractors will perform a cost or price analysis for all procurement options, including contract modifications. This estimate must be in writing and must be prepared before bids or proposals are awarded. These estimates will be kept in the procurement files. **This analysis shall include reasonable steps to avoid duplicative and/or unnecessary purchases. CDS D will analyze lease vs. purchase options, when applicable, to determine the most economical and practical value.**

The CDS D will not use “cost plus a percentage of cost” pricing for contracts (24 CFR 85.36(f)(4)); in addition, the CDS D will use “time and material” type contracts only after a determination is made that no other contract is suitable and the contract includes a ceiling price (24 CFR 85.36(b)(10)).

**E. USE OF LOCAL, SMALL, MINORITY, WOMEN, AND DISABLED VETERAN-OWNED BUSINESSES**

The CDS D will make every effort to use local business firms and contract with disadvantaged businesses. In order to assure compliance, a Disadvantaged Business Enterprise Program has been adopted and is incorporated herein by reference.

In conformance with the requirements of Section 3 of the Housing and Community Development Act of 1968, the CDS D will award contracts for work to be performed to eligible business concerns located in or owned by residents of the target area to ensure that the employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very-low income persons, particularly those who are recipients of government assistance for housing (see 24 CFR 570.607(b)).

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**F. USE OF PRE-QUALIFIED LISTS OF VENDORS/CONTRACTORS**

If allowed by the Funding Agency the CDS D may maintain pre-qualified lists of vendors/contractors. If such lists are used they will remain current and will be developed through open solicitation.

**G. CONTINUING WITH A PREVIOUSLY-SELECTED CONTRACTOR**

If the CDS D has a consultant under a pre-existing, multi-year contract, it may continue to use that consultant for a new grant as long as the activity to be carried out was outlined in the original scope of work used to procure the consultant, and that procurement met Federal requirements.

Under no circumstances will the multi-year contracts extend beyond three years and to one specialty area, such as housing, public works, or economic development. A single RFP to carry out all different funding sources under one specialty such as housing-related activities or all economic development-related activities is permissible.

**H. DEBARRED/INELIGIBLE CONTRACTORS**

The CDS D or its subcontractors will ensure that awards are not made to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549, "Debarment and Suspension" (24 CFR 85.35).

If the CDS D or its subcontractor is employing a construction contractor they will ensure that the awards are made to persons or entities with a current Contractors license.

If the CDS D or its subcontractor is employing a non-profit agency they will ensure that they are in good standing with the State of California.

**I. PROCUREMENT OPTIONS**

If the CDS D wants to contract out for services, they will go through a procurement process. There are four processes available

1. Small purchase;
2. Competitive sealed bid;
3. Competitive proposals; and
4. Non-competitive proposals/sole source.

Among the procurement approaches described below, the competitive sealed bid resulting in a firm, fixed price contract is the preferred procurement approach when there are numerous available and qualified providers, when the requirements and specifications are thoroughly

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detailed and are unlikely to change, and where the CDS D has the opportunity to make the provider assume a large share of the risk for non-performance.

**1. Small Purchase**

CDS D will use the small purchase method for procurement of \$25,000 or less in the aggregate, per 24 CFR 85.36(d)(1). A procurement of more than \$25,000 may not be inappropriately broken up into smaller components solely to qualify for the small purchase approach. Procurement of construction services will follow guidelines more stringent guidelines as listed below.

Competition will be sought through oral or written price quotations. The CDS D will document the receipt of an adequate number (usually three) of price or rate quotations from qualified vendors.

**2. Competitive Sealed Bid [24 CFR 85.36 (d)(2)]**

The competitive sealed bid is the preferred method for procuring construction services. This method will lend itself to a firm, fixed price contract (lump sum or unit price) where the selection can be made principally on the basis of price.

- a. The CDS D will advertise the Invitation for Bid (IFB) in publications of general circulation;
- b. The IFB will include complete and accurate specifications and pertinent attachments, and clearly define items or services needed, in sufficient detail for the bidders to properly respond;
- c. Bids will be opened publicly at the time and place stated in the IFB;
- d. The CDS D will receive at least two or more responsible bids for each procurement transaction; and
- e. If awarded, the contract will be given to the lowest responsive and responsible bidder. The CDS D can, however, decide not to make the award to any of the bidders.

**3. Competitive Proposals [24 CFR 85.36(d)(3)]**

This method has two sub-parts—the Request for Proposals and the Request for Qualifications.

**a. Request for Proposals**

- The Request for Proposals (RFP) will clearly and accurately state the technical requirements for the goods and services required; and
- The CDS D will publicize the RFP, and to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete; and

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- Proposals will be solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement; and
- The CDSO of the County of Humboldt will conduct a technical evaluation of the submitted proposals to identify the responsible offerors; and
- As necessary, the CDSO will conduct negotiations with those offerors who are deemed responsive and responsible and fall within a competitive price range, based on the CDSO’s evaluation of the bidders’ pricing and technical proposals. After negotiations, these bidders may be given the opportunity to submit a “best and final” offer; and
- The CDSO will award the contract to the most responsive and responsible offeror after price and other factors are considered through scoring the proposals or “best and final” offers according to predetermined evaluation criteria. The successful proposal/offeror will clearly be the most advantageous source of the goods and services.

**b. Request for Qualifications**

For procurement involving architecture or engineering services, the CDSO may use the Request for Qualifications (RFQ) competitive proposal procedure whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. In these instances, price is not used as a selection factor.

Once the most-qualified firm is identified, only that firm is asked for a price proposal that is subject to negotiation of a fair and reasonable price. If negotiations with the selected firm are unsuccessful, this process is repeated with the next highest-ranked firm, until a fair and reasonably priced contract can be awarded.

The CDSO will take care to document the basis for its determination of the most qualified competitor and the reasonableness of the contract price. This qualifications-based approach to the competitive proposals method may not be used to purchase other than architectural and engineering services (24 CFR 85.36(d)(3)(v)).

In addition, the federal procurement regulations generally discourage the use of local geographical preferences in the evaluation of bids or proposals except where mandated by federal statutes, due to the restrictions on open competition, which result. However, in procuring architectural and engineering services, geographic location is permitted as a selection criteria provided this criterion leaves an appropriate number of qualified firms (24 CFR 85.36(c)(2)).

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**4. Non-Competitive Proposals/Sole Source [24 CFR Part 85.36 (d) (4)]**

This method may be used only under very limited circumstances and the CDS only when:

- a. The item or service was only available from a single source;
- b. A public emergency or condition requiring urgency existed which did not permit the use of competitive procurement;
- c. Competition was determined to be inadequate after solicitation of proposals from a number of sources; or
- d. Funding source gives prior approval.

**J. BONDING AND INSURANCE**

All prospective Contractors are required to carry current State disability insurance, unemployment insurance, general liability insurance and other insurance as deemed necessary by the County of Humboldt.

In addition to the above, for construction or facility improvement contracts or subcontracts exceeding \$100,000, the CDS of the County of Humboldt will ensure that its procurement meets the minimum federal requirements (24 CFR 85.36(h)) for bid guarantees, performance bonds, and payment bonds. These include:

1. A bid guarantee from each bidder equivalent to 5% of the bid price. The bid guarantee will be a firm commitment in the form of a bid bond, certified check or other negotiable instrument as assurance that the bidder is prepared to execute a contract within the time specified for the bid amount;
2. A performance bond from the (sub) contractor for 100% of the contract price to secure the (sub) contractor's fulfillment of all obligations under the contract; and,
3. A payment bond from the (sub) contractor for 100% of the contract price, to assure payment of all persons supplying labor and material under the contract.

**K. RECORDS AND FILES**

In compliance with 24 CFR 85.36(b)(9), the CDS and its subcontractors shall maintain records to detail the significant history of a procurement. The grantee must maintain files on the rationale for selecting the methods of procurement used, selection of contract type, the contractor selection/rejection process, and the basis for the cost or price of a contract.

Records detailing the above will be kept for a minimum of four years after the completion of the project. Notwithstanding the above, if there is litigation, claims, audits, negotiations or

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other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four-year period, whichever occurs later.

**L. DOCUMENTING PERFORMANCE**

The CDSO shall require the subcontractor to report to on a quarterly basis. Summary of any correspondence shall be maintained in the correspondence file by grant.

**M. PROTEST PROCEDURES**

Should a person or entity procured have a dispute with the procedures used or the decisions made, they may appeal the decision to the CDSO Director to assist them in resolving their dispute. The CDSO will immediately notify the State of such action.

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