

14.228

**COMMUNITY DEVELOPMENT BLOCK GRANT/STATES'  
PROGRAM AND NON-ENTITLEMENT GRANTS IN HAWAII**

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**State Project/Program: COMMUNITY DEVELOPMENT BLOCK GRANT –  
INFRASTRUCTURE FUND**

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**U.S. Department of Housing and Urban Development**

**Federal Authorization: Title I of the Housing and Community Development Act of 1974  
(42 USC 5301)**

**NC Department of Environmental Quality  
Division of Water Infrastructure**

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**Agency Contact Person – Program**

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The auditor should not consider the Supplement to be “safe harbor” for identifying audit procedures to apply in a particular engagement, but the auditor should be prepared to justify departures from the suggested procedures. The auditor can consider the supplement a “safe harbor” for identification of compliance requirements to be tested if the auditor performs reasonable procedures to ensure that the requirements in the Supplement are current.

The grantor agency may elect to review audit working papers to determine that audit tests are adequate.

**Auditors may request documentation of monitoring visits by the State Agencies.**

This compliance supplement should be used in conjunction with the OMB 2020 Compliance Supplement which will be issued in the summer. This includes “Part 3 - Compliance Requirements,” for the types that apply, “Part 6 - Internal Control,” and “Part 4 - Agency Program” requirements if the Agency issued guidance for a specific program. The OMB Compliance Supplement is Section A of the State Compliance Supplement.

**I. PROGRAM OBJECTIVES**

The primary objective of the Community Development Block Grant - Infrastructure Program is to improve the quality of life of low to moderate income people through funding water and wastewater infrastructure projects that improve water services or that mitigate environmental and public health hazards. The program provides grants for water infrastructure improvements projects to communities having a population that is at least 51% low to moderate income in the project service area as allowed by Title I of the Housing and Urban Development Act of 1974. The CDBG program is authorized under Title I of the Housing and Community Development Act

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of 1974, as amended (42 USC 5301). Implementing regulations may be found at 24 CFR part 570, subpart I, which was revised effective May 23, 2012.

### **II. PROGRAM PROCEDURES**

CDBG funds are provided, according to a statutory formula, to those States that elect to administer their CDBG non-entitlement funds. The States, in turn, distribute the funds to units of general local government that do not qualify for grants under the CDBG Entitlement Program. Three percent of the State's grant plus \$100,000 is allowed for administration of the program, with the State matching the three percent with an equal amount of State funding (24 CFR Part 570.489). The North Carolina Department of Commerce is the grantee for the State of North Carolina. Funds are allocated to the State from HUD based upon an established formula. Per S.L. 2013-360, the Department of Environmental Quality receives approximately 2/3 of the State's allocation to fund critical water and wastewater needs across the State. Units of general local government (municipalities and counties) may request CDBG grant funds from the Division of Water Infrastructure (Division) in the North Carolina Department of Environmental Quality (DEQ) through a competitive grant making process. A number of steps are followed in determining which local governments receive funding.

- Local government units that wish to seek funding must complete an application package (North Carolina Water/Wastewater Application Form, and attachments). Applications to the Division are reviewed and prioritized (i.e., ranked) based on information contained in the application, then presented to the State Water Infrastructure Authority (Authority) for approval.
- The Authority reviews the applications and staff ranking and then approves which projects are eligible for funding. A Notice of Intent to Fund letter containing deadlines and conditions is sent to the approved applicants.
- The Division prepares the contract. The contract mirrors the deadlines and benchmarks stated in the Notice of Intent to Fund letter, and may have additional conditions added. Missing a deadline may be grounds for deobligating the grant.
- Once the contract is executed, only funds in the Administrative line item may be accessed by the grantee. Activities in the Administrative line item include grant administration, the engineering report, and the environmental review.
- A Release of Funds letter is generated after the applicant completes the environmental review. After the Release of Funds letter is issued on a project, all funding is available for use by the grantee. Project design and plans and specs may then be developed and submitted to the Division for approval.
- Once plans and specs and design are approved, and all permits are in hand, the local units of government submit bid packages to the Division, which then authorizes awards by approving a standard set of documents.
- The recipient executes a Notice to Proceed as part of the contract documents. The Notice To Proceed establishes the construction start date, which is established in the contract.
- During construction, requests for payment are made to the Division with accompanying invoices, which are reviewed and approved, by the program's financial and technical staff. Modifications in the payment request are made for incorrect math, items over budget or contract or for ineligible costs. Any approved change orders in excess of 10% of the line item cost requires a contract amendment. Grant administration payments are capped at 60% of the budgeted amount until construction begins. At 95% complete, the Division

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reviews the total project and can hold payments until requested items such as sale tax certifications, engineer’s certification on the project and certification of completion by the recipient have been received. The Certification of Completion states a date that construction was complete and accepted by the owner.

**III. COMPLIANCE REQUIREMENTS**

The Type of Compliance Requirements can be found in Section B in the link: [2020 Agency Matrix for Federal Programs](#). This matrix incorporates the OMB Compliance Supplement “Part 2 - Matrix of Compliance Requirement.” A State Agency may have added a compliance requirement that the OMB matrix in Part 2 has a “N” (Not Applicable).

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

<b>CC.</b> Crosscutting requirements	<b>A.</b> Activities Allowed or Unallowed	<b>B.</b> Allowable Costs/ Cost principles	<b>C.</b> Cash management	<b>D.</b> Reserved	<b>E.</b> Eligibility	<b>F.</b> Equipment and Real Property Management	<b>G.</b> Matching; Level of Effort, Earmarking
N	Y	Y	Y	N	N	N	N
<b>H.</b> Period of Availability of Federal funds	<b>I.</b> Procurement and Suspension and Debarment	<b>J.</b> Program Income	<b>K.</b> Reserved	<b>L.</b> Reporting	<b>M.</b> Subrecipient monitoring	<b>N.</b> Special tests and Provisions	
Y	Y	Y	N	Y	N	Y	

**CC. Crosscutting Requirements – Not applicable**

**A. Activities Allowed or Unallowed**

1. The DEQ CDBG-Infrastructure Program is allowed to fund critically needed public water and wastewater infrastructure, and service connections to homes. [Section 105\(a\) of the Housing and Community Development Act of 1974](#) lists the activities eligible under the CDBG State’s Program. For this program, these include (a) the acquisition of real property; (b) the acquisition, construction, reconstruction, or installation of public works, facilities and site, or other improvements, including those that promote energy efficiency; (c) relocation assistance; (d) planning activities; and (e) administrative costs.

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2. Under the national objective criteria, each activity that the State funds must either benefit low- and moderate-income families; aid in the prevention or elimination of slums or blight; or meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available. The unit of general local government grantee must retain documentation justifying its certifications.
3. The CDBG public benefit standards prohibit funding the following activities:
  - (a) general promotion of the community as a whole;
  - (b) assistance to professional sports teams;
  - (c) assistance to privately-owned recreational facilities that serve a predominately higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low- and moderate-income persons;
  - (d) acquisition of land for which the specific proposed use has not yet been identified; and
  - (e) assistance to a for-profit business while that business or any other business owned by the same person(s)/entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient ([24 CFR Part 570.482\(f\)\(4\)\(ii\)](#)).

### **Audit Objectives**

Determine whether awarded funds were expended for authorized projects, only.

### **Suggested Audit Procedures**

Test a sample of transactions for conformance with the allowability of cost provisions or of limitations in the grant and the project review and cost summary document. Verify that costs are allowable.

## **B. Allowable Costs/Cost Principles**

### **Compliance Requirements**

Costs must be consistent with policies and procedures that apply to the CDBG-Infrastructure program. This includes guidelines and special conditions established by the agreement with the recipient. Allowable project costs are limited to the actual cost of the work described in the project application and indicated in the plans and specs, and grant administration costs. Costs are not allowed for expenditures for repairs, or operation and maintenance of any water/sewer system projects. Allowed and disallowed items are listed in [2 CFR Part 200.420 through 2 CFR Part 200.435](#); [2 CFR Part 200.437 through 200.440](#); [2 CFR Part 200.442 through 200.444](#); [2 CFR Part 200.446 through 200.454](#); [2 CFR Part 200.456 through 200.475](#). Items listed in [2 CFR Part 200.436, 200.441, 200.445 through 200.455](#) are expressly prohibited by CDBG enabling regulations at [24 CFR Part 570.489\(p\)](#).

### **Audit Objectives**

To determine that project costs are allowable under the program rules.

### Suggested Audit Procedures

Randomly select invoices in the financial files and compare the purpose to the allowable costs in Subpart E, *Cost Principles* of 2 CFR Part 200 for compliance.

### C. Cash Management

All funds granted shall be expended solely for carrying out the approved project and an audit shall be performed according to regulations found at [2 CFR Part 200.500](#). The applicant shall expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. Please note that the State is not a party to the construction contract (s) and the grant recipient is expected to uphold its contract obligations regarding timely payment.

D. **Reserved** - Not applicable

E. **Eligibility** – Not applicable

F. **Equipment and Real Property Management** – Not applicable

### G. Matching, Level of Effort, Earmarking

**Matching**- Not applicable at the local level.

**Level of Effort** – Not Applicable.

**Earmarking** – Not applicable

### H. Period of Performance

Three dates define the period of performance. All three dates are found in the contract between the local government and DEQ. The *Contract Expiration Date* is the date by which all work must be finished, and the final report is submitted. The *Final Reimbursement Date* is the date by which the final payment request must be submitted to DEQ. No payments will be processed after this date. The *Closeout Date* is the date by which the closeout package with final reports, forms and documentation of the final closeout public hearing is due to DEQ.

### I. Procurement and Suspension and Debarment

Procurement is governed by the *CDBG-Infrastructure Procurement Policy*. Regulations at [2 CFR Part 200.101\(d\)](#) exempts the State and Small Cities CDBG Program from most of Subpart D – Post Federal Award Requirements, Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards, and Subpart E, Cost Principles. The Deputy Administrator of the State and Small Cities' Program has advised States to develop their own procurement policy in writing, and utilize it. [Refer to the CDBG-Infrastructure Procurement Policy for guidance on procurement in this program.](#)

Local governments are required to check the Federal and State debarment lists prior to executing contracts with professional and construction services. Documentation of that

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check (a printout from the SAM.gov site and a printout from the state debarment lists) are to be filed in the local government's procurement files.

Before a local government enters into a sole source contract, documentation of at least two attempts to procure services and goods must be submitted to the NCDEQ staff, along with a letter requesting permission to enter into a sole source contract. The procurement documentation, request letter and response letter from DEQ must be in the local government's files.

### **Audit Objective**

Determine whether procurements were made in compliance with the *CDBG-I Procurement Policy*.

### **Suggested Audit Procedures**

1. Test a sample of contracts and ascertain if the required suspension and debarment certifications were received for subawards and covered contracts.
2. Test a sample of contracts to the List of Parties Excluded from Federal Procurement or Nonprocurement Programs, issued by the General Services Administration and ascertain if contracts were awarded to suspended or debarred parties.
3. Test a sample of contracts and ascertain if the required suspension and debarment certifications were received for subawards and covered contracts.
4. Test a sample of contracts to the List of Parties Excluded from Federal Procurement or Nonprocurement Programs, issued by the General Services Administration and ascertain if contracts were awarded to suspended or debarred parties.

### **J. Program Income**

1. The CDBG-Infrastructure program finances public utilities. No program income is expected, unless grantees hold payments in their bank accounts, where interest can accumulate

### **L. Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable

*Performance and Evaluation Report (PER) (OMB No. 2506-0085)* – Not applicable at the local level

- d. Grantees expending \$750,000 or more in total federal funds (not just CDBG-Infrastructure funds) are required to have a single audit performed on those funds, and for the audit to be posted.
- e.

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### **Performance Reporting**

HUD 60002, *Section 3 Summary Report, Economic Opportunities for Low- and Very Low-Income Persons*, (OMB No. 2529-0043) – Each recipient that administers covered public and Indian housing assistance, regardless of the amount expended, and each recipient that administers covered housing and community development assistance in excess of \$200,000 in a program year, must submit HUD 60002 information using the automated Section 3 Performance Evaluation and Registry (SPEARS) System ([24 CFR sections 135.3\(a\)\(1\) and 135.90](#)).

Information on the automated system is available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_op/section3/section3/spears](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_op/section3/section3/spears). The system was launched on August 24, 2015. The due date for submission of 2013 and 2014 reports was extended to December 15, 2015. SPEARS pre-populates Form HUD 60002 with recipient name and address along with disbursement data for program funding covered by Section 3. Users have the flexibility of selecting the 12-month reporting period, typically to coincide with their respective fiscal cycle.

*Key Line Items* – The following line items contain critical information:

- a. Number of new hires that meet the definition of a Section 3 resident
- b. Total dollar amount of construction contracts awarded during the reporting period
- c. Dollar amount of construction contracts awarded to Section 3 businesses during the reporting period
- d. Number of Section 3 businesses receiving the construction contracts
- e. Total dollar amount of non-construction contracts awarded during the reporting period
- f. Dollar amount of non-construction contracts awarded to Section 3 businesses during the reporting period
- g. Number of Section 3 businesses receiving the non-construction contracts

### **Quarterly Reporting**

Quarterly reports are required in the contract between the DEQ CDBG-Infrastructure Program and the unit of general local government grantee. Quarterly reports are due in the DEQ office no more than 45 days after the end of each quarter (March 31, June 30, September 30, December 31). Copies of the quarterly reports must be in the project file.

### **Final Reporting**

Prior to the reimbursement of the last five percent of the grant, a final report must be completed and submitted to the State. Upon approval of the report, the final five percent

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of the grant may be disbursed. The grant contract final report must parallel the scope and conditions of the grant contract as defined in Exhibit A of the contract.

**M. Subrecipient Monitoring** – Not applicable.

**N. Special Tests and Provisions**

### **Wage Rate Requirements**

**Compliance Requirement** - The Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. Rehabilitation of residential property includes the connection of homes to water and /or sewer. Therefore, if a water/sewer project connects eight or more units on a single property, Davis-Bacon wage rates apply. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work ([42 USC 5310](#)). **For all other construction, Davis-Bacon wage rates apply.**

**Audit Objective** - Determine that workers were classified appropriately and paid at least the wage rate for the classification.

**Suggested Audit Procedures** – Select at least three random payrolls. Determine whether the workers were paid as classified, or higher.

### **Citizen Participation**

#### **Compliance Requirement**

**CDBG** – Prior to the submission to the State for a grant, the applicant must certify to the State that it has met the citizen participation requirements in [24 CFR sections 91.115 and 570.486](#), as applicable.

**Audit Objective** – Determine whether the CDBG grantee has developed and implemented a citizen participation plan.

#### **Suggested Audit Procedures**

- a. Verify that the grantee has a citizen participation plan.
- b. Review the plan to verify that it provides for public hearings, publication, public comment, access to records, and consideration of comments.
- c. Examine the grantee's records for evidence that the elements of the citizen's participation plan were followed as the grantee certified.

### **Environmental Review**

**Compliance Requirement** – Projects must have an environmental review unless they meet criteria specified in the regulations that would exclude them from request for release of funds (RROF) and environmental certification requirements.



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**Audit Objective** – Determine whether the required environmental reviews were conducted and required State approvals were obtained.

### **Suggested Audit Procedures**

- a. Verify that the environmental review certifications are in the unit of general local government's files.
- b. For any project where an environmental review was not performed, ascertain that a written determination was made that the review was not required. The written determination must be in the unit of local government's files.
- c. Ascertain that documentation exists that any determination not to make an environmental review was made consistent with the criteria contained in [24 CFR sections 58.34 and 58.35](#).
- d. Verify that expenses for design, plans and specs were not paid from CDBG funds prior to the Request for Release of Funds is approved unless a letter is in the file from the chief elected official stating his/her understanding that design, plans and specs are exempt from environmental review, OR that the Release of Funds letter from the State allowing expenditure of CDBG funds on those activities is in the file.

### **Labor Standards**

**Compliance Requirement** - The Wage Rate Requirements apply to the rehabilitation of residential property only if such property contains eight or more units. Rehabilitation of residential property includes the connection of homes to water and /or sewer. Therefore, if a water/sewer project connects eight or more units on a single property, Davis-Bacon wage rates apply. However, the requirements do not apply to volunteer work where the volunteer does not receive compensation, or is paid expenses, reasonable benefits, or a nominal fee for such services, and is not otherwise employed at any time in construction work ([42 USC 5310](#)). **For all other construction, Davis-Bacon wage rates apply.**

**Audit Objective** - Determine that workers were classified appropriately and paid at least the wage rate for the classification.

**Suggested Audit Procedures** – Select at least three random payrolls. Determine whether the workers were paid as classified, or higher.

### **Acquisition/Relocation**

**Equipment Acquisition and Management** - Refer to [2 CFR Part 200.439](#), "Equipment and other capital expenditures" for rules regarding the purchase of equipment with project funds.

#### **Audit Objective**

To determine whether equipment was acquired per the procurement policy, and whether the local government has a tracking mechanism for the equipment.

### **Suggested Audit Procedures**

Review the procurement of the equipment and question the local government on its use pertaining to the project. Determine whether the local government has an inventory control system in place to track the equipment.

### **Real Property Acquisition**

Real property acquisition in CDBG programs is governed by regulations in [49 CFR Part 24.101](#). Real property must be voluntarily sold. If the real property is not voluntarily sold, the unit of local government may not move to condemnation to acquire the property, but must design the project around the unacquired property. Real property may be acquired through exercise of eminent domain, but only if there was no earlier effort to purchase the land through a voluntary sale.

A formal appraisal is required if the land is valued at over \$10,000. Land valued at \$10,000 or less does not require a formal appraisal, unless the owner requests an appraisal.

### **Audit Objective**

Determine whether the entity complied with the real property acquisition, appraisal, and negotiation required by the provisions in the program.

### **Suggested Audit Procedures**

Test records to ascertain if: 1) a written offer of the estimated (\$10,000 or less in value) or appraised (>\$10,000) value was made to the property owner; and a 2) written justification was prepared if the purchase price for the property exceeded the amount offered and that the documentation (e.g., recent court awards, estimated trial costs, valuation problems) supports such administrative settlement as being reasonable, prudent and in the public interest.

If the property is appraised, test records to ascertain if: 1) the appraisal was examined by a review appraiser; and, 2) the review appraiser prepared a signed statement which explains the basis for adjusting comparable sales to reach the review appraiser's determination of the fair market value.

### **Relocation Assistance**

Relocation assistance in the CDBG program is governed by section [104\(d\) of the Housing and Community Development Act of 1974](#). In infrastructure projects, relocation is not anticipated to be long-term, rather it is anticipated to be short-term in the event that water or sewer service must be cut to residences, requiring residents to stay in a hotel for a night or two. CDBG funds may pay for the cost of the relocation (i.e., hotel bills).

### **Audit Objective**

Determine whether the Relocation Assistance Plan established by the unit of local government was followed or not.

### **Suggested Audit Procedures**

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Review records to determine whether residents were displaced from their homes as a result of construction in the project. Review the Relocation Assistance Plan to determine plan compliance, and review financial documentation (invoices and receipts) to determine cost and payment for relocation.

### **Fair Housing**

**Compliance Requirement** – Communities receiving CDBG funds must affirmatively affirm fair housing in their community ([42 USC 3601](#)).

#### **Audit Objective**

Determine whether the grantee is affirming the Fair Housing Act requirements.

#### **Suggested Audit Procedures**

Determine the status of the grantee's Assessment of Fair Housing. Request to review a copy of the community's Fair Housing Plan, and review the progress made on quarterly activities meant to further fair housing.

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AUDIT REPORT

Project Description (Ex: Wastewater Facility)

Project Number

Municipality

For the Period \_\_\_\_\_ to \_\_\_\_\_

Statement of Revenues

Sources of Funds:	\$ _____
Local (Cash)	
Bond Sale Proceeds	_____
State Funds	_____
Federal Funds	
Identify Federal Program	
(grant or loan?)	_____
Other Sources	
Identify	_____
	\$ <u>_____</u>

Statement of Expenditures

Construction Cost	\$ _____
Contract I	
Contract II	
Engineering Fee	_____
Administrative Expense	
Identify	_____
Legal Fees	
Identify	_____
Other	
Land	
Interest, etc.	_____
	\$ <u>_____</u>

**ATTACHMENT I**

**Procurement Policy for the CDBG-I Program  
Division of Water Infrastructure  
NC Department of Environmental Quality**

This policy is for the use of Community Development Block Grant-Infrastructure grantees. This policy was developed upon the advice of James Höemann, Deputy Director of the State and Small Cities Program, to replace Subpart D of 2 Part 200, which does not apply to the CDBG State programs, per 2 Part 200.101(d). This policy takes the most stringent of the two procurement requirements, either state or federal, and applies them to grantee government's procurement.

**MICRO-PURCHASE METHOD:**

**Applies to:**

- All purchases of goods and services, including construction
- Up to the micro-purchase threshold of **\$10,000**

**Process:**

- Can award contract without competition if price is fair and reasonable
- Must distribute micro-purchases equitably among qualified suppliers to the extent practicable
- Cannot divide contract to lower cost below micro-purchase threshold to avoid competitive bidding requirements.
- If using this method for services, check for eligibility at SAM.gov and at the NC Department of Administration Debarred Vendors listing prior to finalizing the service contract.
- Must document decision process for the purchase.

*(Cite 2 CFR §§ 200.67; 200.320(a)). There is no comparable method in State law; therefore, all purchases and service contracts that meet the above threshold must comply with this federal method.*

**SMALL PURCHASE PROCEDURE:** ("Informal Bidding" is rough equivalent in State law)

**Applies to:**

- All purchases of goods and services, including construction
- \$3501 up to the Simplified Acquisition Threshold (**now \$250,000**) or the equivalent local/state threshold if more restrictive (it is for purchase of goods).
  - Construction: Cost up to **\$250,000**
  - Goods: Cost up to \$89,999
- Fixed price, unit price, or not-to-exceed contract types

**Process:**

- Obtain price or rate quotes from at least three sources.
- Document quotes, with dates and names of those giving quotes, and maintain them in the files.
- Standard of award: To lowest cost responsible bidder.
- Cannot divide contract to bring contract cost under the threshold; changes to the contract must fall within the original scope.

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- If using this method for services, check for eligibility at SAM.gov and at the NC Department of Administration Debarred Vendors listing prior to finalizing the service contract.
- Documentation: Quotes, with dates and names of those giving quotes, and maintain them in the files.
- *purchases and service contracts less than \$30,000 are not subject to state competitive bidding requirements.*

(Cite 2 CFR §§ 200.88; 200.320(b); PDAT Supplement at II-6, V-8; NCGS 143-131)

### **SEALED BID PROCEDURE:** (“Formal Bidding” is rough equivalent in State law)

#### **Applies to:**

- Purchase and service contracts costing more than the Simplified Acquisition Threshold (>\$250,000) or the equivalent local/state threshold if more restrictive. For the CDBG-I Program, the thresholds are:
  - Construction: **\$250,001** and over;
  - Goods: \$90,000 and over.
- Preferred method for construction contracts above the simplified acquisition threshold

#### **Process:**

- A pre-bid meeting must be held involving all interested contractors, the CDBG-I Compliance Specialist, and the Grant representative for that project, as well as the grant administrator for the local government. The meeting must be scheduled to give contractors sufficient time to factor in the additional work required of complying with Davis-Bacon and Section 3 regulations.
- Public advertisement of at least thirty (30) days prior to bid opening;
- A complete, adequate, and realistic set of plans/specifications or purchase description is available to bidders;
- At least two bidders for the purchase of goods, if the contract is a construction repair contract, three bidders *minimum* are required for bid opening on the first attempt.
- If three bidders do not bid on the project, the bids may not be opened.
- The grantee must then publicly advertise in a newspaper with a larger distribution for at least seven days (NCGS 143-129).
- If two or more bids are received, then bids may be opened.
- If one bid is received, then a price analysis must be conducted, and a letter sent to DEQ Division of Water Infrastructure requesting permission to move forward with a sole source procurement.
- Solicit bids from an adequate number of known suppliers. We require at least three direct solicitations, in addition to the public advertisement, and publication on the state IPS website. Direct solicitations must include qualified M/WBEs and small businesses in the area to comply with direct solicitation requirements. Section 3 businesses/firms must be located in the project area, or the town, county, or adjoining county to be fully qualified as a Section 3 business for a particular project.
- Public bid opening at date and time advertised.
- Contract awarded on a firm-fixed-price basis in writing.

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- Determination of lowest price must include factors such as discounts, transportation costs, and lifecycle costs.
- Can reject any and all bids for “sound documented reasons”.
- Check for eligibility to receive federal funds at SAM.gov and at the NC Department of Administration Debarred Vendors listing prior to finalizing the construction contract.
- Documentation: pre-bid meeting minutes, advertisement(s) with an affidavit(s) of publication, copy of each solicitation, copy of the IPS posting, bid tabs, documentation of lowest price determination.

### **Standard of award:**

- Lowest responsive, responsible bidder.

*(Cite 2 CFR §200.320(c); NCGS 143-129)*

**COMPETITIVE PROPOSAL PROCEDURE:** (No similar procedure in state statute that generally applies to procurement)

### **Applies to:**

- Procurement of grant administrators, lawyers, planners, accountants, etc. for the project, regardless of the size of the contract;
- Any contract costing more than the simplified acquisition threshold (**now \$250,000**);
- Situations where conditions are not appropriate for the use of sealed bids.

### **Process:**

- The Request for Proposals (RFP) must be publicly advertised in a newspaper of general circulation. In addition, the RFP must be published in the IPS system.
- Evaluation criteria and relative importance is identified in the RFP.
- Any responses to the publicized RFP must be considered to the maximum extent practical
- Proposals must be directly solicited from at least three sources.
- Must have written method for conducting technical evaluations of proposals and selecting a contractor.
- Evaluations of each proposal must be in writing and dated. Those evaluations must be maintained in the project files.
- The author of the RFP may not respond to the same RFP. They are ineligible for consideration due to conflict of interest.
- Must have a minimum of two respondents to move forward with a contract.
- If there is only one respondent, the RFP must be republished in a newspaper of wider distribution for fifteen business days.
- If only one firm responds again, request permission in writing from the DEQ CDBG-I Supervisor to use sole source procurement.
- Check for eligibility to receive federal funds at SAM.gov and at the NC Department of Administration Debarred Vendors listing prior to finalizing the administrative services (grant administrative services, accounting, planning, legal services, etc.) contract.
- Documentation: advertisement(s) of RFP, affidavit of publication(s) of RFP, evaluation criteria, evaluations of every candidate, responses to proposal received, reason for final selection, council/commission meeting minutes of award.

## **COMMUNITY DEVELOPMENT BLOCK GRANT – INFRASTRUCTURE FUND**

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### **Standard of award:**

- Responsible firm with the most advantageous proposal, considering price and other factors identified in the RFP.

(Cite 2 CFR §200.320(d))

### **COMPETITIVE PROPOSALS PROCEDURE FOR SOLICITING ARCHITECTURAL AND ENGINEERING(A/E) SERVICES:**

#### **Applies to:**

- Procurement of architectural, engineering, construction management at-risk services and surveying services for the project, regardless of the size of the contract;
- Process may only be used for architectural and engineering services, no other services. This process may not be used for procurement of grant administrators.

#### **Process:**

- The Request for Qualifications (RFQ) must be published in a newspaper of general circulation (publicly advertised).
- The RFQ must also be directly solicited from at least three sources, in addition to the publication in a newspaper of general circulation. Direct solicitations must include qualified M/WBEs and small businesses in the area to comply with direct solicitation requirements. Section 3 businesses/firms must be located in the project area, or the town, county, or adjoining county to be fully qualified as a Section 3 business for a particular project.
- Evaluation criteria and relative importance must be identified in the RFQ; however, *price is not a factor in the initial selection of the most qualified firm.*
- The author of the RFQ may not respond to the same RFQ. They are ineligible for consideration due to conflict of interest.
- Must have a written method for conducting technical evaluations of proposals and selecting a consultant.
- Must have a minimum of two respondents to move forward with the process.
- If there is only one respondent, the RFQ must be republished in a newspaper of wider distribution for at least 15 business days.
- If only one firm responds the second time, request permission in writing from the DEQ CDBG-I Supervisor to use sole source procurement.
- Any responses to the publicized RFQ must be considered to the maximum extent practical.
- Qualifications of respondents are evaluated to select the most qualified firm.
- Once the most qualified firm is selected, fair and reasonable compensation can then be negotiated.
- State licensure requirements apply.
- Check for the firm's eligibility to receive federal funds at SAM.gov and at the NC Department of Administration Debarred Vendors listing prior to finalizing the engineering contract.
- May use local geographic preferences for the procurement of these specific services, provided that this leaves an appropriate number of qualified firms (three) given the nature and size of the project, to compete for the contract.



## **COMMUNITY DEVELOPMENT BLOCK GRANT – INFRASTRUCTURE FUND**

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- Documentation: advertisement of RFQ, affidavit of publication of RFQ, evaluation criteria, evaluations of every candidate, responses to the request for qualifications received, reason for final selection, council/commission meeting minutes of award.

(Cite 2 CFR §§200.319(b); 200.320(d)(5); NCGS 143-64.31)

### **NON-COMPETITIVE PROPOSAL PROCEDURE:**

#### **Applies to:**

- Solicitation from just one source and fit within one of the following four exceptions:

#### **Applies when:**

- Item is available from only one source;
- Public exigency or emergency will not permit a delay that would result from competitive process;
- Competition deemed inadequate after soliciting from a number of sources using one of the other procurement methods identified in 2 CFR Part 200.320(a)-(d) – that is micro-purchase procedures, small purchase procedures, sealed bidding, or competitive proposals.
- Award agency expressly authorizes noncompetitive procurement in response to a written request. ***The CDBG-I Program will approve the use of the non-competitive proposal procedure on a case-by-case basis only.***

#### **Process:**

- Perform cost or price analysis if procurement is above the simplified acquisition threshold (**now \$250,000**) or the equivalent local/state threshold if more restrictive.
- If after the initial solicitation of proposals/qualifications only one response was received, the unit of local government is required to broaden their initial publication and direct solicitation by republishing in a larger circulation newspaper and expanding direct solicitation efforts. If after the second attempt only one response is received:
  - Submit procurement documentation to DEQ CDBG-I Supervisor to use sole-source procurement.
  - Negotiate profit as a separate element of the contract price.
- Check for the firm's eligibility to receive federal funds at SAM.gov and at the NC Department of Administration Debarred Vendors listing prior to finalizing the contract.
- Documentation: All required documentation as listed above, plus a copy of the letter to the DEQ CDBG-I Supervisor requesting permission to use sole source procurement and the response from the DEQ. Also, a copy of the price analysis performed.

(Cite 2 CFR §200.320(f); NCGS 143-129(e)(2))