



**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 local 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:**

1. Must distribute micro-purchases equitably among qualified suppliers to the extent practicable.
2. **Must ensure solicitation from small, historically underutilized businesses, (HUB), minority- and women-owned enterprises (M/WBE), and Section 3 businesses.**
3. Cannot divide contract to lower cost below micro-purchase threshold to avoid competitive bidding requirements.
4. 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.
5. Can award contract without competition if price is fair and reasonable.
6. 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.
- **\$10,001** 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:**

1. Cannot divide contract to bring contract cost under the threshold; changes to the contract must fall within the original scope.
2. Obtain price or rate quotes from at least three (3) sources. **Must ensure solicitation from small, historically underutilized businesses, (HUB), minority- and women-owned enterprises (M/WBE), and Section 3 businesses.**
3. 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.
4. Standard of award.
  - To lowest cost responsible bidder.
5. Documentation.
  - Quotes, with dates and names of those giving quotes, HUB and Section 3 documentation, and maintain them in the files.

*(Cite 2 CFR §§ 200.88; 200.320(b); PDAT Supplement at II-6, V-8; NCGS 143-131; NCGS 143-131(b))*  
*Purchases and service contracts less than \$30,000 are not subject to state competitive bidding requirements. Per NCGS 143-128.2, local governments must establish good faith efforts prior to bid solicitation.*



### **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:**

1. Coordinate Dates.
  - Contact the NCDEQ CDBG-I Unit Grant Representative and Compliance Specialist assigned to your project to coordinate pre-bid meeting dates prior to finalizing the bid notice.
  - A pre-bid meeting must be held involving all interested contractors and invested parties (NCDEQ, Project Engineer, Grant Administrator, and local government representatives).
  - 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.
2. Bid Notice.
  - A complete, adequate, and realistic set of plans/specifications or purchase description is available to bidders.
  - All required federal and state language must be in the bid notice. A sample bid notice can be found on the Division of Water Infrastructure website under "HUD Requirements for CDBG-I Project" (<https://deq.nc.gov/about/divisions/water-infrastructure/i-have-funding/design-bid>)
  - A digital copy of the final bid notice must be received by the NCDEQ at the time it goes out for solicitation.
  - Public advertisement of at least thirty (30) days prior to bid opening.
3. Solicitation of Bids.
  - Solicit bids from an adequate number of known suppliers.
  - CDBG-I Program requires at least three (3) direct solicitations, in addition to the public advertisement, and publication on both the state IPS and HUB websites (this is the responsibility of the local governments not NCDEQ).
  - There are links here to assist you: <https://deq.nc.gov/about/divisions/water-infrastructure/i-have-funding/cdbg-i-compliance-and-reporting-information#procurement>



- Direct solicitations must include qualified HUB, M/WBEs, small businesses, and Section 3 businesses in the area to comply with direct solicitation requirements.
- Section 3 businesses **must** meet the requirements of 24 CFR Part 75.

4. Minimum Number of Bids Needed.

- Public bid opening at date and time advertised.
- At least two (2) bidders for the purchase of goods, if the contract is a construction repair contract,
- At least three (3) bidders *minimum* are required for bid opening on the first attempt.
  - If three (3) 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 (2) or more bids are received, then bids may be opened.
      - If one (1) 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.

5. Standard of Contract Award:

- Award to the lowest, responsive, responsible bidder.
  - Determination of lowest price must include factors such as discounts, transportation costs, and lifecycle costs.
  - Determination of responsive and responsible, see the NC School of Government's "Awarding Competitively Bid Contracts, Lowest Responsive Responsible Bidder Flowchart" here: <https://deq.nc.gov/about/divisions/water-infrastructure/i-have-funding/cdbg-i-compliance-and-reporting-information#procurement>
- 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.
- Contract awarded on a firm-fixed-price basis in writing.

6. Documentation:

- Document all steps and decisions on procurement (e.g., pre-bid meeting minutes, advertisement(s) with an affidavit(s) of publication, copy of each solicitation, copy of the IPS and HUB postings, certified bid tabs, documentation of lowest price determination, bid negotiation if applicable).

(Cite 2 CFR §200.320(c); NCGS 143-129; NCGS 143-128.2(e)). Per NCGS 143-128.2, local governments must establish good faith efforts prior to bid solicitation.



## **COMPETITIVE PROPOSAL PROCEDURE**

### ***(Request for Proposals / RFPs)***

#### **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:**

1. Appoint a Local Selection Review Committee and/or Person.
  - Each local government needs to appoint a local selection review committee and /or person responsible for developing the RFP, receiving the submitted RFPs, reviewing and evaluating the submissions, and recommending a firm/business to the local governing body.
  - Must have written method for conducting technical evaluations of proposals and contractor selection.
2. Development of Request for Proposals (RFP).
  - Must clearly and accurately state the technical requirements and scope of work for goods and/or services required.
  - Evaluation criteria and relative importance is identified in the RFP.
  - If local government is giving a preference to Section 3 businesses, this must be stated in the RFP.
  - The author of the RFP may not respond to the same RFP. They are ineligible for consideration due to conflict of interest.
  - RFP templates are available on the Division of Water Infrastructure website to assist with RFP development. These templates are here:  
<https://deq.nc.gov/about/divisions/water-infrastructure/i-have-funding/cdbg-i-compliance-and-reporting-information#procurement>
3. Solicitation for Proposals.
  - The Request for Proposals (RFP) must be publicly advertised in a newspaper of general circulation. **There must be an adequate number of days** (at least fifteen (15) business days **starting on the date of publication**) **from the time of advertised notice and submission deadline** to allow time for respondents to receive a detailed RFP (if applicable), prepare and submit their proposal.
    - There is a short-form RFP local governments may use in a newspaper as a cost saving measure. However, a more detailed RFP must be done.



- In addition, the detailed RFP must be published on the IPS system and HUB website (all this is the responsibility of the local governments not NCDEQ).
    - There are links here to assist you: <https://deq.nc.gov/about/divisions/water-infrastructure/i-have-funding/cdbg-i-compliance-and-reporting-information#procurement>
  - Also, the detailed RFP must be directly solicited from at least three sources (responsibility of each local government not NCDEQ).
    - Direct solicitations must include qualified **HUB**, M/WBEs, small businesses, and Section 3 businesses in the area to comply with direct solicitation requirements.
    - Section 3 businesses **must** meet the requirements of **24 CFR Part 75**.
4. Minimum Number of Proposals Needed.
- Must have a minimum of two (2) respondents to move forward with a contract.
    - If there is only one (1) respondent, the RFP must be republished in a newspaper of wider distribution for fifteen business days; in addition to, an expanded direct solicitation effort.
    - If only one firm responds again, request permission in writing from the DEQ CDBG-I Supervisor to use sole source procurement.
5. Review and Rate Received Proposals.
- Any responses to the publicized RFP must be considered to the maximum extent practical
  - Evaluations of each proposal must be in writing and dated. Those evaluations must be maintained in the project files.
6. Standard of Award.
- Responsible firm with the most advantageous proposal, considering price and other factors identified in the RFP.
  - Check for eligibility to receive federal funds at SAM.gov and at the NC Department of Administration Debarred Vendors listing PRIOR to finalizing the services contract (e.g., grant administrative services, accounting, planning, legal services, etc.).
  - Either a fixed price (a specified price to be paid when the items or services are delivered and accepted) or a cost-reimbursement / “not-to-exceed” (price is usually reimbursed as costs are incurred) contract.
7. Documentation.
- Advertisement(s) of RFP, affidavit of publication(s) of RFP, IPS and HUB postings, direct solicitation documentation, evaluation criteria, evaluations of every candidate, responses to proposal received, reason for final selection, council/commission meeting minutes of award.

(Cite 2 CFR §200.320(d)) No similar procedure in state statute that generally applies to procurement)



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

***(Request for Qualifications / RFQs)***

**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:**

1. Appoint a Local Selection Review Committee and/or Person.
  - Each local government needs to appoint a local selection review committee and /or person responsible for developing the RFQ, receiving the submitted RFQs, reviewing and evaluating the submissions, and recommending a firm/business to the local governing body.
  - Must have written method for conducting technical evaluations of qualifications and contractor selection.
2. Development of Request for Proposals (RFQ).
  - Must clearly and accurately state the technical requirements and scope of work for goods and/or services required.
  - 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.
  - If local government is giving a preference to Section 3 businesses, this must be stated in the RFQ.
  - 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.
  - The author of the RFP may not respond to the same RFQ. They are ineligible for consideration due to conflict of interest.
  - RFQ templates are available on the Division of Water Infrastructure website to assist with RFQ development. These templates are here:  
<https://deq.nc.gov/about/divisions/water-infrastructure/i-have-funding/cdbg-i-compliance-and-reporting-information#procurement>



3. Solicitation for Proposals/Qualifications.

- The Request for Qualifications (RFQ) must be publicly advertised in a newspaper of general circulation. **There must be an adequate number of days** (at least fifteen (15) business days **starting on the date of publication**) **from the time of advertised notice and submission deadline** to allow time for respondents to receive a detailed RFP (if applicable), prepare and submit their proposal.
  - There is a short-form RFQ local governments may use in a newspaper as a cost saving measure. However, a more detailed RFP must be done.
- In addition, the detailed RFQ must be published on the IPS system and HUB website (all this is the responsibility of the local governments not NCDEQ).
  - There are links here to assist you: <https://deq.nc.gov/about/divisions/water-infrastructure/i-have-funding/cdbg-i-compliance-and-reporting-information#procurement>
- Also, the detailed RFQ must be directly solicited from at least three sources (responsibility of each local government not NCDEQ).
  - Direct solicitations must include qualified **HUB**, M/WBEs, small businesses, and Section 3 businesses in the area to comply with direct solicitation requirements.
  - Section 3 businesses **must** meet the requirements of **24 CFR Part 75**.

4. Minimum Number of Proposals Needed.

- Must have a minimum of two (2) respondents to move forward with a contract.
  - If there is only one (1) respondent, the RFQ must be republished in a newspaper of wider distribution for at least 15 business days; in addition to an expanded direct solicitation effort.
  - If only one (1) firm responds the second time, request permission in writing from the DEQ CDBG-I Supervisor to use sole source procurement.

5. Review and Rate Received Proposals.

- 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.
- Evaluations of each proposal must be in writing and dated. Those evaluations must be maintained in the project files.





6. Standard of Award.

- The most qualified firm, where price is not an evaluation factor in the RFQ.
- Once the most qualified firm is selected, fair and reasonable compensation can then be negotiated.
- Check for eligibility to receive federal funds at SAM.gov and at the NC Department of Administration Debarred Vendors listing PRIOR to finalizing the engineering services contract (e.g., engineering services).
- State licensure requirements apply.
- Either a fixed price (a specified price to be paid when the items or services are delivered and accepted) or a cost-reimbursement / "not-to-exceed" (price is usually reimbursed as costs are incurred) contract.

7. Documentation.

- Advertisement of RFQ, affidavit of publication of RFQ, IPS and HUB postings, direct solicitation documentation, 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; or
- 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))*