



CDBG Implementation Manual 2025

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Chapter 3: Procurement

Overview

This chapter covers the requirements for procuring professional services for Community Development Block Grant (CDBG) projects. The chapter outlines the request for proposal (RFP) process and guidelines required by the State of New Mexico CDBG program in the order of occurrence.

Procurement under the CDBG Program complies with 2 CFR 200; 24 CFR 586; and 24 CFR 570.489, State of New Mexico requirements, and meets the requirements outlined in the Implementation Manual per 24 CFR 570.480 (f). All CDBG procurement uses the forms DFA provides for the CDBG program. If there is a contradiction between the regulations, the manual, and the Grantee's local procurement policy, the most restrictive requirement must be followed. Among other requirements procurement must:

- Promote full and open competition.
- Specify applicable methods of procurement. Cost plus percentage of costs and percentage of construction cost methods are NOT ALLOWABLE.
- Include standards of conduct for employees engaged in award or administration of state CDBG-funded contracts.
- Ensure that all purchase orders and contracts include all applicable references to statutes, regulations, and Executive Orders.

Statewide Purchase Agreements (SPAs), cooperative procurements (such as CES), and Design Build procurements are NOT allowable for the CDBG program. Given this, the first step on any procurement is to check the Implementation Manual for the suitable template, or to inquire with the DFA Project Manager. Use of the approved New Mexico CDBG templates is required for all parts of the project (as defined by the scope and budget) regardless of the funding source.

3.1 Review Procurement Policy

Procurement Policy

The Grantee's designated purchasing officer responsible for procurement of services, supplies, equipment or construction obtained with CDBG funds shall review all proposed procurement actions to ensure compliance with the Grantee's own policies and procedures, in the event that they are more stringent than those stated here. By following the manual and using the CDBG forms, and working through approvals with the DFA assigned Project Manager, the Grantee can be reasonably sure of having project procurements which are compliant with CDBG requirements.

The purchasing officer shall take affirmative steps to assure that small and minority firms, and women's business enterprises, are solicited whenever they are potential qualified sources. Where permitted by regulations, delivery schedules should be developed which could include

participation by such businesses. Where possible, Request for Proposal evaluation criteria should include a factor with an appropriate weight for these firms.

The Grantee shall also adhere to the following provisions:

- 1) Invitations for Bids or Requests for Proposals shall be clearly written and shall fully describe the technical requirements or services.
- 2) The method of contracting (fixed price, cost plus fixed fee, purchase orders, etc.) shall be appropriate to the specific procurement. Cost plus percentage of cost contracts are specifically prohibited if CDBG funds are involved.
- 3) Construction procurements shall be advertised in accordance with state law and all applicable CDBG requirements and using the Exhibit 4-A. Contracts shall be awarded to the lowest responsive and responsible bidder. Responsible bidder and responsive bid are defined in §13-1-82 NMSA 1984 and §13-1-84 NMSA 1984, respectively. Bids may be rejected when it is in the best interest of the Grantee. (See Chapter 4 on Construction and Labor Standards.)

CODE OF CONDUCT

No employee, officer or agent of the Grantee shall participate in the selection or in the award or administration of a contract supported by CDBG funds if there is a real or apparent conflict of interest. Such a conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the above has a financial or other interest in the firm selected for award. Language should include the statement, “elected officials, staff or agents, are prohibited from personally benefitting from CDBG procurement”.

No officer, employee, or agent of the Grantee shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, except where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

Any alleged violations of these standards of conduct shall be referred to the District Attorney.

For each contract awarded, a “Campaign Contribution Form” must be included. This form applies to prospective contractors with the state or a local public body pursuant to the requirements of §13-1-112 A. (3) NMSA 1984. A prospective contractor subject to this procurement shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official (member of the governing body) of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds \$250 over the two year period.

3.2 CDBG Procurement for Professional Design Services

Grantees must follow CDBG procurement requirements, including using the CDBG required templates for RFP and contracts. The templates do include sections to offer modifications. Any such modifications must be approved by the DFA assigned Project Manager.

Throughout the procurement process, the Grantee must submit all documentation for project procurement for review and approval to the Project Manager **regardless of funding source**. “Project” is defined by the scope and budget in the Grant Agreement. Procurements that took place prior to execution of the Grant Agreement, but include activity under the scope and budget of the project, must be approved by DFA for compliance.

For each proposed state public works project, local public works project or construction management contract, the architect, engineer, landscape architect, construction management and surveyor selection committee, state highway and transportation department selection committee or local selection committee, as appropriate, shall evaluate statements of qualifications and performance data submitted by at least three businesses in regard to the particular project and may conduct interviews with and may require public presentation by all businesses applying for selection regarding their qualifications, their approach to the project and their ability to furnish the required services. (Please refer to 13-1-120 NMSA 1984 for the selection process).

If fewer than three proposals are received, the Grantee’s procurement officer must determine whether adequate competition occurred. To do this, the Grantee makes a review of the following factors: whether the solicitation was reasonably advertised, solicitation outreach, number of responsive proposals received, price reasonableness, market conditions, proposal quality, and barriers to competition. If the Grantee determines adequate competition occurred, documentation of the review must be placed in the project file and submitted to the DFA assigned Project Manager for review. If competition is deemed insufficient, the Grantee may cancel and re-solicit.

Competitive Sealed Qualifications-Based Proposals (§ 13-1-120 NMSA 1984)

- Competitive means that entities are competing against each other for the right to the proposed activity/contract.
- Sealed indicates that the proposals are to be received in a sealed package, not open to the public and confidential in nature.
- Qualifications-based means that entities submitting proposals are being evaluated on a variety of factors. Although price cannot be the sole factor in a qualifications-based evaluation, it can be taken into consideration during the evaluation process. Doing so can help to increase the cost effectiveness of administrative and design professional services without compromising the quality of service.

3.3 Procurement of Professional Administrative Services (Exhibit 3-A and 3-B)

To procure professional administrative services for the project, the Grantee must follow CDBG requirements which ensure compliance with state and federal requirements for the program.

Exhibit 3-A is the “Request for Proposals for Administrative Services.” If the Grantee elects to hire an architect or engineering firm to conduct administrative services, the Grantee must issue an RFP, select the most advantageous proposal, negotiate and utilize the “**Contract for Administrative Services**” (**Exhibit 3-B**).

The only administrator which may be procured without an RFP is a Council of Government (COG) which represents a government-to-government procurement. However, the Grantee must still provide the “Contract for Administrative Services” (**Exhibit 3-B**) if utilizing the COG services for project administration.

3.4 Request for Proposals (RFP) for Design Services (Exhibit 3-C or 3-F)

DFA Approval

Competitive sealed qualification-based proposals are used for any professional service contract on CDBG. The process requires that a request for proposals (RFP) is submitted to DFA for approval *prior* to publishing the advertisement or posting the notices. DFA requires the “RFP for Design Professional Services” (**Exhibit 3-C**) be used.

The “Request for Proposals for Planning Professional Services” (**Exhibit 3-F**) should be used if the procurement is for planning services only. DFA must approve the RFP prior to publishing. Once the RFP has been approved, the Grantee must advertise once per week for a period of two weeks (or 14 calendar days) to provide sufficient response times as per HUD procurement regulations.

At a minimum, all RFPs should include the following:

1. Scope of work (as defined by **Exhibit 1-A** of the Grant Agreement);
2. Proposal receipt deadline;
3. Contact name and telephone number;
4. Types of services required;
5. Number of copies required;
6. Evaluation criteria to be used, including that required by statute (excluding resident/veteran preference); and
7. The relative weight to be given to each factor based on the importance of each item to the Grantee.

The following is a list of evaluation criteria that must be included in RFP. (Exhibits 3-A, 3-C, and 3-F). The Grantee may add additional evaluation factors based on the complexity of the project.

1. Specialized Design and Technical Competence

2. Capacity and Capability
3. Past Record of Performance
4. Familiarity with the Contracting Agency
 - Proximity to or familiarity with the area in which the project is located
5. Current Volume of Work with the Contracting Agency not 75% Complete
 - The volume of work previously done for the entity requesting proposals, which is not 75% complete with respect to basic professional design services.

Amount of design work to be done in New Mexico **is not allowable for CDBG.**

NOTE: If a Grantee has a current General Services Agreement (on-call) with an engineering and/or architectural firm for professional design services that meets the conditions below, the Grantee may request DFA's approval by submitting a memo outlining how each of the conditions are met:

1. Contract term must not exceed four years including all extensions and renewals
2. The Request for Proposal (RFP) included that the proposed project was identified in the Project Description
3. The Grantee submits the General Services Agreement to the DFA Project Manager for review
4. The RFP did not contain geographical preferences in the evaluation process (i.e. work to be done in New Mexico, New Mexico resident business preference, New Mexico resident-veteran preference, etc.)

If DFA approves, the Grantee will be required to execute the Exhibit 3-D in place of the current task order, to ensure that all CDBG and federal requirements and the CDBG project specific Scope of Work are included. After approval by the governing body, the contract, notice, sign-in sheet, and copy of minutes of award must be provided to the DFA assigned Project Manager.

3.5 Advertising the RFP for Professional (Design) Services

Once the Grantee has received approval of the RFP from DFA, the RFP can be published or posted to attract prospective proposers. State law requires that bids be advertised once, not less than ten days prior to bid opening. DFA strongly recommends 21 days between the publishing/posting of the Request for Proposals and the final date that proposals will be accepted. As stated previously, the project description must match the Scope of Work as defined by **Exhibit 1-A** of the Grant Agreement.

Proposal Submittal Procedures

The Grantee can decide the quantity and type of documents to be submitted by offerors. All proposals must be submitted in a sealed envelope with the "SEALED PROPOSAL ENCLOSED" notation. The Grantee must clock in/time stamp all proposals upon receipt, which must be received prior to the collection time specified. Verbal proposals will not be accepted. DFA highly recommends that Grantees conduct a pre-proposal conference. This allows Grantees the opportunity to answer questions in a public forum.

Consideration of Proposals

Proposals received on-time will be opened publicly or in the presence of one or more witnesses. The name and address of each offeror will be read aloud. For classification purposes, proposals may be classified as acceptable, potentially acceptable or unacceptable. The Grantee has the right to waive technical irregularities in the proposals.

An evaluation committee shall be selected by the Grantee so that the proposals may be evaluated. This committee will individually evaluate each proposal and convene after their individual reviews have taken place.

The Grantee must publicly announce the business selected for the award, notify that awardee as well as the unsuccessful offerors and provide a notice of award to the successful business.

3.6 Contractor/Subcontractor Clearance for Professional Services (Exhibit 1-X)

All parties involved with the CDBG project (i.e. Grantee, State of New Mexico, administrative service providers, Architects/Engineers, sub consultants, construction contractors and subcontractors) must be eligible to receive federal funding. That means they must be active in the System for Award Management (“SAM”, a federal database) and not be disbarred, delinquent in federal debt.

SAM registration is required for all parties working on the CDBG project, including all vendors whether working by agreement, contract, or subcontract. The Grantee must also be actively registered in SAM to receive CDBG funding in any capacity. Registration on SAM (<https://sam.gov/>) is free and required for work on all federally-funded projects. All parties must maintain an active registration on SAM throughout the life of the project, which must be available for public search at all times. The Grantee must submit Contractor/Subcontractor Clearance Forms (**Exhibit 1-X**) to DFA for verification and approval of active SAM registration. DFA will return an eligibility confirmation to the Grantee once verification has been completed. DFA will also verify this registration at least once per year. The Grantee is responsible for submitting the Exhibit 1-X for each vendor as the renewal date approaches. The Grantee is encouraged to keep a calendar of the expiration dates of vendor registrations to manage this process effectively.

3.7 Professional Services Agreement (Exhibit 3-D, 3-E, 3-G)

After selecting a firm, the Grantee may begin contract negotiations with the highest qualified offeror. In making the decision to negotiate, a fee determination as to what is fair and reasonable should be based on the estimated value of services, scope of work, complexity and professional nature of services. If the negotiation is unsuccessful, the Grantee has the right to negotiate with the second highest qualified offeror. Once agreement on the scope of services and compensation has been reached, the Grantee and the design professional must sign a written agreement.

DFA requires the utilization of the Agreement between Owner and Engineer (**Exhibit 3-D**), the Agreement between Owner and Architect (**Exhibit 3-E**) or the Agreement between Owner and Planner (**Exhibit 3-G**) to ensure that all components of CDBG requirements are properly addressed. In the Agreement, the Grantee must include the Scope of Work (**Exhibit 1-A**), delivery schedule and the terms of compensation. It is critical that the Scope of Work, as defined by **Exhibit 1-A**, be clearly identified in the professional services agreement because upon completion of the project, success will be evaluated based on the Scope of Work in the Grant Agreement. The professional service provider must know exactly what the metrics of the successful project are so that nothing is overlooked.

3.8 Contract/Subcontract Report (Exhibit 1-E)

After a contract has been executed, Grantees must update the Contract/Subcontract Report (**Exhibit 1-E**). The report lists the Contractor and Subcontractor(s) name and address, Federal Tax ID #, Type of Contract, Trade Codes, and details of the business including Race/Ethnicity, Women Ownership, and Section 3 status. Also included is the Date of Contract Execution, Davis Bacon information and both State and Federal wage decision numbers, and finally, the amount of the contract to be paid with CDBG funds. A copy of this report should be submitted to the assigned DFA Project Manager with each quarterly progress report OR within 30 days of entering into a contract. (An updated **Exhibit 1-E** is required with each quarterly progress report.)

3.9 Contract Amendments

All amendments to vendor contracts of the Grantee (engineering, architect, other professional services, or construction) must be approved by the DFA assigned Project Manager.

The changes must be consistent with the Grantee's Grant Agreement, which includes Project Description **Exhibit 1-A**, Project Schedule **Exhibit 1-B**, and Project Cost/Financing Summary **Exhibit 1-C**. If not, a request to amend the Grant Agreement must be submitted in writing and signed by the chief elected official to the DFA Director. The request and approval must be prior to the alterations of the contracts and/or proposed work initiated.

3.10 Maintain Procurement Files

Procurement files must be maintained for all contracts and, at a minimum, must include the documents described in the **Professional Services Checklist** to document that the procurement was open and competitive. Documents must be provided to the DFA Project Manager upon execution of the contract.