



NCDA 2018 Winter Conference

Procurement under Part 200



PROCUREMENT STANDARDS

2 CFR PART 200



Regulatory Requirements

- §§200.317-200.326 of 2 CFR part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.
- Program regulations specify whether the part 200 requirements apply

Effective Date for Part 200 Requirements

- 3 year grace period for implementation of part 200 requirements
- The implementation date for the procurement standards will start for fiscal years beginning on or after December 26, 2017

General Procurement Standards

- See 2 CFR §200.318
- The non-Federal entity must have its own documented procurement procedures, which reflect State, local, and tribal laws and regulations (as applicable), and conform to the requirements of 2 CFR part 200
- Must maintain oversight of contractors to ensure performance
- Written standards of conduct

Competition

- All procurement transactions must be conducted in a manner providing full and open competition
- Use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals prohibited, except where expressly mandated by Federal statutes
- Written procedures required for procurement transactions
- Prequalified lists of persons, firms, or products which are used in acquiring goods and services must be current and include enough qualified sources

Methods of Procurement

- Micro Purchases
- Small Purchase
- Sealed Bids
- Competitive Proposals
- Non-Competitive Proposals

Methods of Procurement (cont)

- Micro Purchases
 - \$3,500 (the current micro-purchase threshold) for the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold
 - NOTE: this threshold changes from time to time
 - No solicitation of quotations required
- Small Purchase
 - \$150,000 or less for supplies or services
 - Quotations or submitted bids

Methods of Procurement (cont)

- Sealed Bids (aka “Formal Advertising”)
 - All construction contracts, including less than \$150,000
 - Produced or designed items over \$150,000
 - Submitted bids
- Competitive Proposals
 - Professional Services and/or; Multi-task Services over \$150,000
 - Designed Items over \$150,000 when Sealed Bid is not appropriate
 - Submitted Proposals

Methods of Procurement (cont)

- **Non-Competitive Proposals**
 - May be used only when:
 - the item was only available from a single source
 - public exigency or emergency for the requirement did not permit a delay resulting from competitive solicitation
 - after solicitation of a number of sources, competition was determined inadequate, or
 - HUD or the pass-through entity expressly authorized noncompetitive proposals in response to a written request from the non-Federal entity
 - Submitted Proposals

Contract Cost and Price

- An independent cost or price analysis must be performed in connection with each procurement action, including each contract modification, where the cumulative amount of the original contract and contract modifications exceeded the Simplified Acquisition Threshold
- Profit must be negotiated as a separate element of price for each contract in which there is no price competition and in all cases where a cost analysis is performed

Contract Cost and Price (cont)

- The non-Federal entity may only agree to pay costs or prices based on estimated costs only to the extent the costs incurred or cost estimates included in negotiated prices would have been allowable for the non-Federal entity under the cost principles in Subpart E of 2 CFR Part 200
- Cost plus a percentage of cost and percentage of construction cost methods of contracting prohibited

Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, HUD or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected.

Bonding Requirements (cont)

If such a determination has not been made, the minimum requirements must be as follows:

- A bid guarantee from each bidder equivalent to five percent of the bid price
- A performance bond on the part of the contractor for 100 percent of the contract price
- A payment bond on the part of the contractor for 100 percent of the contract price

Required Contract Provisions

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Award

Examples:

- Davis-Bacon
- EEO
- Debarment and suspension

Some Helpful Links

- 2 CFR Part 200

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=fbdba94e1debc2564dcc19ed965d9e01&mc=true&n=pt2.1.200&r=PART&ty=HTML#sg2.1.200_1316.sg3

- Monitoring Handbook (see Exhibit 34-3 for procurement checklist)

https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2