

WEM's Procurement Cheat Sheet for the Public Assistance Program

Micro-Purchase Procedures (Federal; 2 C.F.R. § 200.320(a))

\$5,000.00 or less

- The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold = \$5,000.00
- To the extent practicable, must distribute micro-purchases equitably among qualified suppliers
- May be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable
- **State Agencies:** Best judgment is required for any purchases below \$5,000 that do not have a state contract.

Small Purchase Procedures (Federal; 2 C.F.R. § 200.320(b)) aka "Simplified Bid Process"

(State) \$5,000 to \$50,000

- Relatively simple and informal procurement methods for securing services, supplies, or other property that does not cost more than the simplified acquisition threshold (Federal)
- Obtain a **minimum** of three (3) bids via phone, catalog, internet, fax, etc. The awarded bid must be **confirmed in writing** (State)
- Avoid sole source contracts for contracts above \$5,000 (State)
- NOTE: State sets the top end of the threshold; Federal guidelines are set to \$250,000, but we follow the standard that is the most restrictive
- The Office of Inspector General (OIG) says you need to make 3 direct contacts to promote socioeconomic contracting. You may look up businesses in your region by Socio-Economic Status at dsbs.sba.gov OR web.sba.gov/pro-net/search/dsp_dsbs.cfm

Formal Procurement Methods

\$50,000 and up (State)

- You *should* have some sort of written procedures for procurement transactions that help decide which type of formal method you use (Federal)
- State agencies have stricter standards for Procuring Services above \$50,000 (State)
- Competitive Proposals (**MUST** also solicit at least 3 bids, including from women/minority/small businesses) are typically best for professional services, like engineering, studies, surveying, etc.
- Sealed Bidding (**MUST** also solicit directly to 3 women/minority/small businesses) for typically best for construction contracts

Competitive Proposals (Federal; 2 C.F.R. § 200.320(d)) Professional Services

- The appropriate method when more than one source is expected to submit an offer and either a fixed-price or cost-reimbursement type contract is awarded
- Requests for proposals **must be publicized** and identify all evaluation factors and their relative importance
- Proposals must be solicited from an adequate number of qualified sources
- Must have written method for conducting technical evaluations of the proposals received and for selection of the contractor

Sealed Bidding (Federal; 2 C.F.R. § 200.320(c)) Construction

- Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the "responsible" bidder whose bid, conforming with all the material terms and conditions of the invitation for bids (IFB), is the lowest in price
- Bids must be solicited from an "adequate number of known suppliers," providing them sufficient response time before the date of opening of the bids
- Governments must publicly advertise the invitation for bids (**change**) (Federal)
- All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly (**change**) (Federal)
- This method is preferred for construction when sealed bidding is feasible, which is when certain conditions are present
- Other procedural requirements at 2 C.F.R. § 200.320(c)(2) (Federal)

What is Socioeconomic Contracting?

Socioeconomic contracting is a **requirement** where you take affirmative steps to assure that minority-owned, women-owned, small, and labor surplus area firms are used **when possible** (2 C.F.R. § 200.321). The affirmative steps **MUST include at least the following**:

- Placing qualified small and minority businesses and women’s business enterprises on solicitation lists
- Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small, minority-owned, and women-owned businesses
- Establishing delivery schedules, where the requirement permits, which encourage participation by small, minority-owned, and women-owned businesses
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce
- Requiring the prime contractor, if subcontracts are to be let, to take the five previous, affirmative steps

Failure carry out these affirmative steps is frequently identified as a justification to de-obligate funding by the Department of Homeland Security (DHS), Office of Inspector General (OIG).

USE THE SMALL BUSINESS ADMINISTRATION’S “DYNAMIC SMALL BUSINESS SEARCH” (DSBS) TOOL TO FIND BUSINESSES YOU CAN SOLICIT. dsbs.sba.gov OR web.sba.gov/pro-net/search/dsp_dsbs.cfm

- Write a memo to document what three businesses you contacted, when you contacted, and if they submitted an estimate/bid/proposal for your project

What is “Cost-Plus-Percentage-of-Cost” contracting?

A cost-plus-percentage-of-cost contract is a cost reimbursement contract containing some elements that obligates the applicant to pay the contractor an amount (in the form of either profit or cost), which cannot be determined at the time the contract is made and incurred in the future. In other words, you are contracted to pay costs to perform the work, plus a commission based on the percentage of these future incurred costs.

Federal regulations prohibit cost-plus-percentage-of-cost contracts because they provide no incentive for contractors to control costs—the more contractors charge, the more profit they make.

See the example to the right. This contractor’s profit varies with the actual cost to perform the work. Total costs, including profit, are agreed to in negotiations prior to the work starting. The profit or “Fixed Fee” part of the invoice, highlighted in yellow, varies with the actual costs to perform the work. (Without looking at the specifics of the contract or purchase order, this cost would be deemed ineligible).

Professional Services				
Staff Direct	Hourly Rate	Hours	Hourly Rate	Charge
Project Manager		0	\$ 40.00	\$ -
Professional Engineer		7	\$ 35.00	\$ 245.00
Registered Land Surveyor		5	\$ 35.00	\$ 175.00
Technician		5	\$ 27.00	\$ 135.00
Clerical		0	\$ 15.00	\$ -
Direct Employee Rate Total				\$ 555.00
Indirect Overhead Fee				
			Overhead Rate	Charge
Overhead Fees on Labor			89.90%	\$ 498.95
(Staff Direct Employee Rates x Accounting Overhead Rate)				
Indirect Overhead Fee				\$ 498.95
Fixed Fee				
			Percentage Rate	Charge
Fixed Fee			7.50%	\$ 79.05
(Direct Employee Rates + Overhead Rate) x (Fixed Fee Rate)				
Fixed Fee				\$ 79.05
Total Project Costs				\$ 1,132.99

REMINDER: Your contract MUST include language from “[Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#)” included! This requirement for Federal Contracts is located at 2 CFR § 200.326.