

Chapter 4: Procurement

Introduction

This chapter describes the policies and procedures that must be followed when entering into contractual agreements with other entities. Services often procured by grantees to complete CDBG projects include professional grant administrators, engineers, architects, and construction contractors.

Section 4.1 CDBG Procurement Requirements

All procurements funded in whole or in part with CDBG funds must comply with the applicable federal requirements found in 2 CFR Part 200. The goal in using these procurement procedures is to achieve maximum open and free competition.

[2 CFR Part 200.318](#)

Each grantee (and sub-recipient) shall adopt and abide by the CDBG Procurement requirements set forth in this chapter, which shall apply only to procurements funded with CDBG dollars, as authorized in 2 CFR 200.318. The CDBG Procurement requirements include:

- A code of conduct to govern the performance of the grantee's officers, employees or agents in contracting with CDBG funds and to ensure adherence to the conflict of interest and disclosure requirements (outlined in [Chapter 1: Project Administration](#)); and
- A requirement that positive efforts be made to use small, minority, female, and Section 3 businesses; and
- A requirement that contracts be awarded, to the greatest extent feasible, to businesses that provide economic opportunities for low and very low-income persons residing in the project area; and
- A requirement that cost reasonableness has been determined in advance of contract bidding, per 2 CFR 200.323(a).

[2 CFR Part 200.323](#)

Section 4.2 Overall Procurement Requirements

Environmental Review and Bidding

As stated in [Chapter 2: Environmental Review](#), it is HUD policy as of April 2011 that the environmental review process be completed prior to bidding to allow for an unprejudiced decision about the action and to allow for any modifications or project cancellation based upon the environmental review.

SAM Unique Entity Identifier

Each business that receives CDBG assistance must have a Unique Entity Identifier (UEI) generated by SAM.gov.

On **April 4, 2022**, the unique entity identifier used across the federal government changed from the DUNS Number to the Unique Entity ID.

- The Unique Entity ID is a 12-character alphanumeric ID assigned to an entity by SAM.gov.
- As part of this transition, the DUNS Number has been removed from SAM.gov.
- Entity registration, searching, and data entry in SAM.gov now require use of the new Unique Entity ID.
- Entities already registered in Sam.gov can find their Unique Entity ID by following the steps [here](#).
- Entities who are not registered in Sam.gov can get a Unique Entity ID [here](#).

Sub-recipients, Contractors and Sub-contractors

A sub-recipient, contractor or subcontractor who is registered in SAM.gov has a Unique Entity ID assigned already. No action is necessary to create a Unique Entity ID. The Unique Entity ID must be provided to the prime and Grantee as soon as possible.

A sub-recipient or subcontractor who is **not** a registered entity in SAM.gov, must request a Unique Entity ID as soon as possible. Even if the entity already have a DUNS Number, they will need to request a Unique Entity ID.

Refer to the [Guide to Getting a Unique Entity ID](#) to get a UEI. **Sub-recipients and sub-contractors do not need to complete a full SAM.gov entity registration. If you only conduct certain types of transactions, such as reporting as a sub-awardee, you may not need to complete an entity registration. Your entity may only need a Unique Entity ID (UEI). No SAM.gov entity registration will be required for you to get an ID.**

Excluded Parties

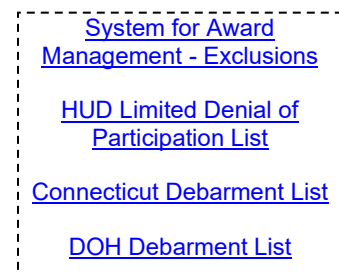
Grantees must not award any contract to any organization that is debarred or suspended or is otherwise excluded from or ineligible for participation in federally assisted programs. This applies to any CDBG-assisted contract at any tier in the process.

Prior to contract execution, the Grantee must check the organizations name against the following:

- The federal System for Award Management (SAM) Exclusions List
- The HUD Limited Denial of Participation List
- The Connecticut Department of Labor Debarment List

DOH Small Cities Debarment List

The Grantee must document that the organization (including all contractors and subcontractors) are not on this list with screenshots or other proof the organization is not debarred.



The General Services Administration has released a [YouTube video](#) with detailed instructions on searching Exclusions on SAM.gov.

Documentation proving verification of contractor eligibility, prior to contract execution, will be checked at monitoring.

Build America, Buy America Compliance

The Build America, Buy America Act (BABA) requires that all iron, steel, manufactured products, and construction materials used for federally funded infrastructure projects are produced in the United States, unless otherwise exempt or subject to an approved waiver. This requirement is known as the “Buy America Preference (BAP)” and the specific requirements are codified in 2 CFR § 184.

[2 CFR Part 184](#)

Products Covered Under the Baba Act

Iron and Steel: Items that consist completely or predominantly of iron, steel, or a combination of both. “Predominantly” means the cost of the iron and steel content exceeds 50% of the total cost of all the item’s components. All manufacturing processes, starting from the initial melting stage and continuing through the application of coatings, must occur in the United States.

Construction Materials: Articles, materials, or supplies used for construction activities that consist of only one of the items described below. For the purposes of the HUD Phased Implementation Waiver timeline described below, construction materials are divided into two categories: specifically listed construction materials and not listed construction materials. **Specifically Listed Construction Materials:** Items include (1) non-ferrous metals; (2) lumber; and (3) plastic- and polymer based composite building materials, pipe, and tube. **Not Listed Construction Materials:** Items include (1) all other plastic- and polymer-based materials (such as polymers used in fiber optic cables), (2) glass, (3) fiber optic cable, (4) optical fiber, (5) engineered wood, and (6) drywall. **Construction Material Standards (2 CFR 184.6)** All manufacturing processes for the construction material must occur in the United States.

Manufactured Products: Manufactured products include articles, materials, or supplies that have either been: 1. Processed into a specific form or shape, or 2. Combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. A manufactured product may include components that are construction materials or iron and steel products unless the manufactured product also meets the definition of iron and steel or construction materials. In such instances, the product should be re-categorized in the appropriate category. Manufactured products must meet two production requirements. First, the final product must be manufactured in the United States. Second, at least 55% of the cost of the components making up the manufactured product must be associated with components that were mined, produced, or manufactured in the United States.

BABA Applicability on CDBG Projects

The Buy America Preference references that all infrastructure projects are included, an infrastructure project is defined broadly as any project that includes Construction, Maintenance, Alteration, or Repair (applies even if the primary purpose is not infrastructure).

Examples of CDBG-funded activities that may be subject to the BAP:

- Rehabilitation of buildings and real property
- Construction of public facilities and improvements, such as streets, sidewalks, neighborhood centers, and the conversion of buildings for eligible purposes
- Utility installation or improvements
- Water systems (drinking water and wastewater)

Examples of CDBG-funded activities that may NOT be subject to the BAP:

- Acquisition of real property
- Relocation and demolition

- Public services
- Shelter or public facility operating expenses

General Waivers

HUD issued a public interest waiver for exigent circumstances, “Public Interest Waiver of Build America, Buy America Provisions for Exigent Circumstances as Applied to Certain Recipients of HUD Federal Financial Assistance”. This waiver applies when there is an urgent need by a CPD grantee to immediately complete an infrastructure project because of a threat to life, safety, or property of residents and the community. (Effective until November 23, 2027, or such shorter time as HUD may announce via Notice.)

[Public Interest Waiver](#)

HUD also issued a public interest de minimis, small grants, and minor components waiver titled “Public Interest De Minimis and Small Grants Waiver of Build America, Buy America Provisions as Applied to Certain Recipients of HUD Federal Financial Assistance”. This waives the BAP for all infrastructure projects whose total cost (from all funding sources) is equal to or less than the simplified acquisition threshold at 2 CFR 200.1 which is currently \$250,000. This Notice also waives the application of the BAP for a de minimis portion of an infrastructure project, meaning a cumulative total of no more than five percent of the total cost of the iron, steel, manufactured products, and construction materials used in and incorporated into the infrastructure project, up to a maximum of \$1 million. (Effective until November 23, 2027, or such shorter time as HUD may announce via Notice.)

[HUD De Minimis and Small Grants Waiver](#)

To facilitate a smooth transition to the BAP requirements, HUD established a Phased Implementation Waiver for its programs based on the date when funds are obligated to the State. All CDBG Formula Grants and Recovery Housing Program Grants funded in FY 2024 that meet BABA requirements and involve the use of Iron and Steel and Construction materials listed (i.e.(1) non-ferrous metals; (2) lumber; and (3) plastic- and polymer based composite building materials, pipe, and tube). Starting in FY 2025, all projects that meet BABA requirements and involve construction materials not listed and manufactured products will be applicable to BAP.

[HUD Phased Implementation Waiver](#)

Certifications

The prime contractor and all subcontractors must comply with the requirements of the BABA Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, as applicable to the Community Development Block Grant (CDBG) and Recovery Housing Program (RHP) infrastructure projects. Pursuant to the U.S. Department of Housing and Urban Development’s (HUD’s) notice, “Public Interest Phased Implementation Waiver for FY2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance” (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

A “**Buy America Certification Form**” (Attachment 4-16) **must be submitted with the bid package.** A “**Materials Certification**”, (Attachment 4-17) **must be completed by the prime contractor and submitted** to the Grantee prior to contract execution. The Materials Certification must be submitted to DOH with the winning bid package as explained in Step 13 below.

[Attachment 4-16: BABA Certification Form](#)

[Attachment 4-17: Materials Certification](#)

NOTE: If it is determined that the project meets the requirements for a General Waiver, the Grantee must submit written notification to DOH that justifies the decision for the Department’s review and approval.

HUD Project Specific Waivers

Project/product-specific waivers are available on a **limited, case-by-case basis**, after DOH and HUD's review, a public comment period, and final approval from the Office of Management and Budget's Made In America Office (MIAO). A waiver should **ONLY** be requested from DOH if an extenuating circumstance occurs that meets one of the following criteria: 1. Public interest: Adhering to the BAP would be inconsistent with the public interest. 2. Non-availability: Covered materials are not produced in the USA in sufficient and reasonably available quantities or of a satisfactory quality. 3. Unreasonable cost: Inclusion of domestically produced covered materials will increase the cost of the overall project by more than 25 percent. If more than one Federal agency is funding an infrastructure project, project-specific waivers will require coordination among those Federal agencies prior to a determination by the MIAO.

NOTE: DOH will only submit waiver requests to HUD with substantial documentation that meets one or more of the above-listed criteria.

Minority Business Enterprises/Women Business Enterprises (MBE/WBE)

Background

The regulations at 2 CFR Part 200.321 requires grantees to take affirmative action to contract with small and minority-owned firms and women business enterprises. DOH does not require set asides or participation quotas, but grantees are expected to make special efforts to award contracts to MBE and WBE firms.

[2 CFR 200.321](#)

Requirements

The grantee must make good faith efforts to see that Small and Minority Businesses and Women Business Enterprises are provided opportunities as a result of Small Cities funding. A separate file should be established and maintained with efforts clearly documented. In addition, grantees are required to notify the State Department of Administrative Services (DAS) of all procurements utilizing CDBG funds. The DAS directory of businesses can be found at: <http://www.biznet.ct.gov/SDSearch/SDSearch.aspx>.

Suggested Outreach

It is the grantee's job to ensure the MBE/WBE firms are notified of any contracts ready for bid. Other specific measures a grantee may take to meet M/WBE goals include:

- Assuring that small businesses and MBE/WBEs are solicited whenever they are potential sources.
- Including MBE and WBE firms on solicitation lists and sending them an Invitation to Bid.
- When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small businesses and MBE/WBEs.
- Where the requirements permit, establishing delivery schedules which will encourage participation by small businesses and MBE/WBEs.

- If any subcontracts are to be let, requiring the prime contractor to take the above affirmative steps.
- Setting aside a percentage of CDBG funds to be awarded to MBE/WBEs.
- Including MBE/WBE criteria with additional points in selection criteria for professional services procurement.

REMINDER: Grantees are reminded that projects funded with state bond funds are subject to the requirements of the Commission on Human Rights and Opportunities (CHRO). Grantees with co-funded projects should contact Alvin Bingham at alvin.bingham@ct.gov to determine applicability.

Section 4.3 Economic Opportunities (Section 3)

Overview

The Section 3 program requires recipients of HUD funding to direct employment, training, and contracting opportunities to low-income individuals and the businesses that employ these persons within their community. Section 3 is a provision of the HUD Act of 1968 and is found at 12 U.S.C. 1701u. The regulations are found at 24 CFR Part 75.

[24 CFR Part 75](#)

All recipients of CDBG funds (Grantees, Subrecipients, Contractors, and Subcontractors) must ensure that “to the greatest extent feasible,” when CDBG and other Section 3 covered funds are used to assist housing and community development projects, preference for construction-related training, jobs, and contracting opportunities go to low- and very-low income people and to businesses that are owned by low- and very-low income persons or businesses that hire them. It is important to note that these opportunities are both gender and race neutral.

Applicability

Whenever any portion of CDBG funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 may apply, based on the guidance provided below.

Section 3 requirements that apply to CDBG funded Projects:

Section 3 applies to all construction projects that receive \$200,000 or more in CDBG (or other HUD covered assistance), including projects that are financed in conjunction with state, local or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- Section 3 applies to recipients of CDBG funding, as well as its sub-recipients, contractors and sub-contractors; and

- Professional service contract labor hours (construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and construction draw inspection and prevailing wage labor compliance) are not required to be reported.
- If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

The regulations should not be construed to mean that recipients are required to hire Section 3 Workers or award contracts to Section 3 Business Concerns other than what is needed to complete covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, **reporting is still required.**

Responsibilities

A local government that receives CDBG funding has the responsibility to comply with Section 3 requirements. The grantee is also required to “ensure compliance” of their contractors and sub-contractors.

Grantee’s Section 3 responsibilities include:

- a. Notifying Section 3 Workers and business concerns about jobs and contracts generated by Section 3 covered assistance so that they may submit bids/proposals for available contracts and job openings with the grantee,
- b. Notify potential contractors of their responsibilities under Section 3,
- c. Include Section 3 language in all applicable contracts,
- d. Certification of receipt of the Grantee’s Section 3 Plan by contractors and sub-contractors. Grantees shall collect Attachment 4-1 from all contractors and subcontractors on the CDBG assisted project. [Attachment 4-1:
Certification of Section 3
Compliance](#)
- e. Require subrecipients, contractors, and subcontractors to meet the requirements of §75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.
- f. Assess the number of Section 3 workers for all contractors and subcontractors at the time of contract award. See Attachment 4-2 for collection report format. [Attachment 4-2:
Contractor Permanent
Workforce Report](#)
- g. Document action(s) taken to meet the HUD benchmarks,
- h. Respond to Section 3 complaints, and
- i. Complete and submit the required Section 3 Forms along with procurement documents to DOH,

Outreach Best Practices

Grantees must develop a Section 3 plan, including outreach to Section 3 Workers and Businesses within the municipality. Best practices include:

[HUD Section 3 Resources and Tools](#)

- Conduct a mandatory pre-bid meeting.
- Organize Section 3 Workshops for contractors.
- Publication of opportunities in newsletters or other local newspapers, including those targeted to Limited English Proficient populations.
- Use of signage at the project site and flyers posted in the project area.
- Notification of potential training or employment opportunities to neighborhood and non-profit groups, including Public Housing Authorities, servicing low- and very low-income persons.
- Communicate opportunities to employment agencies and career centers.
- Work with unions to identify Section 3 Workers.

It is important to document efforts made to comply with Section 3. Files should contain memoranda, correspondence, advertisements, etc., illustrating attempts to meet Section 3 benchmarks (e.g., to reach out to eligible persons regarding employment or training and/or business concerns). Documentation will show the steps taken to implement the plan, and will most likely cross-reference information in other files, such as procurement and construction contracting. The mere existence of a Section 3 Action Plan is not sufficient. Affirmative attempts to reach Section 3 benchmarks must be made.

Meeting Section 3 Benchmarks

DOH's subgrantees, developers and contractors will be required, to the greatest extent feasible, meet the Section 3 HUD benchmarks found at [24 CFR Part 75.30](#):

- Twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers;

$$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = 25\%$$

- Five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.

$$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = 5\%$$

Definitions:

Section 3 Worker

- HUD defines a Section 3 worker as a worker that meets one of the following requirements: The worker's income is below the income limit established by HUD.
- The worker is employed by a Section 3 business concern.
- The worker is a YouthBuild participant

[Attachment 4-14:
Worker-Targeted Worker
Certification Form](#)

Targeted Section 3 Worker

A Targeted Section 3 worker includes any worker who is employed by a Section 3 business concern; or a Section 3 worker who is:

- Living within the service area or neighborhood of the project; or
- A YouthBuild participant.

Section 3 Business

To be considered a Section 3 Business Concern a business must meet one of the following criteria:

- At least 51% or more owned by Section 3 Workers, or
- Over Seventy-five percent (75%) of the labor hours performed by the business are performed by low- or very low-income persons, or
- It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing.

[Attachment 4-15:
Section 3 Business
Certification Form](#)

Reporting Section 3 Achievements

Grantees are required to report Section 3 labor hours on the Attachment 11.1: Semi-Annual Report Form. Grantees who have not met the HUD benchmarks will be required to report on the nature of the agency's efforts to meet the benchmarks and provide documentation for monitoring.

[Attachment 11-1:
Semi-Annual Report
Form](#)

Caution: Compliance with Section 3 does not supersede other applicable laws and regulations. The 1992 amendments specifically state that Section 3 requirements will be consistent with federal, state, and local laws and regulations. Therefore, the Common Rule procurement standards cannot be violated to comply with Section 3.

Section 4.4 Conflicts of Interest

Background

Nothing is more detrimental to a successful procurement operation than to have the relationship between the grantee and the contractor questioned regarding real or apparent conflicts of interest. Conflict of interest issues deal with the relationship between the parties and financial gain. Those that could be judged to have conflicts include local officials, employees, consultants, family members, and business partners. Also, see [Chapter 1: Project Administration](#) for information on conflict of interest.

[Attachment 1-8:
Request for Exception
Form](#)

Requirements

2 CFR Part 200, Connecticut General Statutes and the CDBG regulations all contain conflict of interest provisions; therefore, possible conflict of interest issues must be brought to the attention of DOH immediately. The sooner a real or apparent conflict of interest is identified the better. If a potential conflict is known at the time of application, it should be brought to the attention of DOH staff.

Section 4.5 Methods of Procurement

Grantees must select from one of four methods of procurement based on the type of products and/or services being procured and their cost.

Micro Purchase Procedures

Procurement by micro-purchase is the acquisition of goods or supplies, the aggregate dollar amount of which does not exceed the current micro-purchase threshold of \$3,000. To the extent practicable, the local government must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the local government considers the price to be reasonable.

Small Purchase Procedures

Small purchase procedures entail a relatively simple and informal process that can be used when cost of goods or supplies, in the aggregate, are no more than \$10,000. Under this process, the grantee should:

- Obtain price or rate quotations either by phone or in writing from an adequate number of qualified sources (at least three sources).
- Maintain documentation regarding the businesses contacted and the prices quoted.
- Make the award to the lowest responsive and responsible source.
- Prepare and sign a contract formalizing the scope of work and the terms of compensation.

Competitive Sealed Bid

The Competitive Sealed Bid method is the required method for procuring CDBG-funded construction work. (See [Chapter 9: Labor Standards](#) for detailed information on preparing construction bid documents.) The following requirements apply to the competitive sealed bid procurement process:

[Attachment 1-6:
Newspaper List](#)

- Competitive sealed bids are initiated by publishing an Invitation for Bids (IFB).
- The IFB must be advertised in the newspaper of daily general circulation in the jurisdiction at least one time not less than seven days before the date set for the opening of bids.
- The IFB must also be publicized by distributing the IFB to a list of qualified contractors.
- The grantee must provide a copy of the IFB to the DAS.
- The IFB must include Attachment 4-3: Commission on Human Rights, Notification to Bidders
- The grantee is strongly encouraged to advertise in a minority newspaper.
- The IFB will include specifications that define the services or items required in order for the bidder to properly respond.
- 2 CFR Part 200 requires a bid guarantee from each bidder equal to five percent of the bid price. This guarantee serves as an assurance that the chosen contractor will execute the contract within the time specified.
- All bids must be publicly opened at the time and place stated in the Invitation for Bids.
- The bids must be tabulated and reviewed.
- There must be at least two bids from qualified sources to permit reasonable competition. Receipt of less than 2 bids will require approval of DOH to move forward without rebidding.
- The contract is awarded to the lowest, responsible and responsive bidder.
- Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.
 - The contract must be a firm-fixed-price contract (lump sum or unit price with a maximum amount identified).
- If alternates (additives or deducts) will be taken, the bid documents must be clear as to what order those alternates will be applied.

[Attachment 4-3:
Notification to Bidders](#)

Competitive Negotiation

This method of procurement is used if the selection can be based on factors other than cost, such as

experience and capacity. Procurement of architectural, engineering, planning and administrative services fall under this category. Grantees shall seek permission from DOH prior to using competitive negotiation for contracts other than architectural, engineering, planning or administrative services. Only fixed-price contracts or hourly contracts with a not-to-exceed figure may be awarded.

Caution: Cost plus a percentage of cost contracts is not acceptable. This means that standard architectural and engineering contracts cannot be used without changing the fee structure that is based on a percentage of costs.

Reminder: Consultants must not assist the grantee with procurement if they intend to respond to the solicitation for services.

Competitive negotiations are initiated by publishing a Request for Proposals (RFP) or Request for Qualifications (RFQ). The RFP is used when price is a factor in selection; the RFQ is used when price is considered after selections (generally only for engineering services). In both the RFP and RFQ, all significant evaluation factors and their relative importance should be clearly stated. In addition, the grantee should provide or make available any materials such as reports, maps, and site plans to assist interested firms in preparing responsible submissions. A sample RFQ is provided as Attachment 4-4 to this Chapter.

The following requirements apply to the competitive negotiation procurement process:

- The RFP or RFQ must be advertised in a newspaper of daily general circulation in the area at least one time not less than seven days before the date set for the opening of proposals.
- The grantee must provide a copy of the IFB to the DAS.
- The grantee is strongly encouraged to advertise in a minority newspaper.
- The grantee must include MBE and WBE firms on solicitation lists and send them the RFP or RFQ.
- If an RFP is used, it should specify the scope of services to be provided and the type of contract to be used: fixed price, or an hourly rate with a not to exceed figure.
- An RFP should also:
 - Specify that cost and pricing data is required to support the proposed cost;
 - State anticipated start and completion dates; and
 - List evaluation criteria that will be used in ranking proposals.
- All proposals received must be reviewed and ranked according to the selection criteria, and the review must be documented in writing. [Attachment 4-8](#) provides a sample Professional Services Evaluation.
- For both RFPs and RFQs, selection is made on the basis of the most responsible offer or price with consideration given to the factors identified in the Request for Proposal or Qualifications.
- For RFQs, an invitation is then made to one or more respondents to negotiate a price or fee. Document the reason the firm is chosen and that the price established is reasonable.
- The grantee must maintain documentation of cost reasonableness for all services and reasons for selection.

- The grantee must send an award letter to the selected contractor and document the file with it.
- The grantee must prepare and sign a contract formalizing a scope of work and the terms of compensation.
- The grantee must promptly notify unsuccessful offerors in writing and document the file with the rejection letters.

Non-Competitive Negotiations

Non-competitive negotiation is procurement through solicitation of a proposal from one source and is often referred to as sole source procurement. A contract may be awarded by noncompetitive negotiation *only* when the award is infeasible under small purchase procedures, competitive sealed bids, or competitive negotiations and one of the following circumstances applies:

- There is some public emergency that will not permit delay resulting from competitive solicitation (the grantee must declare an emergency as authorized by law); or
- The results of the competitive negotiations are inadequate; or
- The product or service is available only from a single source.

Caution: The use of the non-competitive negotiation procurement method must be authorized by DOH.

The following requirements apply to the non-competitive negotiation procurement process:

- Negotiations must be conducted with the selected company regarding a scope of work and price; and
- Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

Section 4.6 Other Procurement Issues

Cost Reasonableness Estimates

2 CFR 200.323 requires grantees to perform a cost or price analysis in connection with every procurement action in excess of the Small Purchase Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Grantee must make independent estimates before receiving bids or proposals. Documentation of a cost analysis will be checked at monitoring.

[2 CFR 200.323](#)

Pre-Qualified Lists

The use of pre-qualified lists is allowed by DOH in the Housing Rehabilitation program only. Information on the policies regarding pre-qualified lists can be found in [Chapter 7: Housing Rehabilitation](#).

Over Budget Bids

Despite careful cost analyses and safeguards, there are occasions when all bids will exceed available project funds. This section governs the process for dealing with such a situation.

Options

The following options are available for awarding a bid following an overage:

1. Obtaining additional funds from another source and continuing with the original IFB.
2. Rejecting all bids, revising project scope and bid specifications, and issuing a revised IFB (competitive sealed bid) open to the entire public.

Low Bids and Change Orders

To maintain the integrity of the bidding process, the change order process must only be used when (1) the change order work fits within the scope of the original project and (2) the reason for the change is something that was unanticipated or unforeseen at the time the original contract was awarded.

Change orders cannot be used for fundamental redesign of a project and cannot be used to “fix” problems in the project specifications if the local government was aware of the problems before awarding the contract. (If your specifications have problems, it’s better to issue an addendum—if the problems were discovered before bids are due—or to re-bid the contract.) Change orders also cannot be used to take advantage of a good deal on a construction project—in other words, if you’ve awarded a contract for 500 linear feet of street paving work, you can’t then use a change order to double the number of linear feet included in the contract just because the successful bidder gave you a really great price on the original contract.

NOTE: Total change orders must not exceed 15% of the original contract price.

Add/Deduct Alternates

Grantees shall use deductible alternates unless doing so is not practical or not feasible. When deductible alternates are requested, the bid document issued by the grantee must specify the method and order in which alternates will be applied in determining the low bid. Drawings must also clearly show the alternates.

For example, a project might involve the construction of a new community center that includes a portico and a small out-building to accommodate future expansion. The bidding instructions would indicate which items are to be bid as deductible alternates and the order of priority in which they are to be deducted. In this example, assume the portico and out-building are to be bid as deductible alternates, and the order of priority for deducting is first, the out-building, and second, the portico. The grantee would go back through each bid (not just the lowest one) and first subtract the amount each bidder estimated for the out-building from the total amount she/he bid for the project. The grantee would then check to see if any of the adjusted bids are within budget. If so, the grantee can award the bid to the bidder with the lowest adjusted bid. If not, the grantee would repeat the process, this time deducting the cost of the portico from the adjusted bid of each bidder. Depending on the number of deductible alternates specified, the process can be repeated until one of the adjusted bids is within budget.

It is imperative that the grantee's IFB explicitly state the method of award, including use of any deductible alternates. Failure to be clear and precise on the procedures that will be utilized can cause confusion or disputes among bidders that could, at the very least, cause project delays. DOH recommends that the grantee's attorney be consulted in these cases.

Grant Administration Services

By Contractors/Consultants

Professional grant administrators are often procured by grantees to undertake CDBG projects. Note that any person contracted to perform grant administration services to be paid with grant funds, must be procured following CDBG procurement requirements.

By Grantee Staff

A grantee may instead choose to perform some or all of these services with their own staff member and can be reimbursed for the time an employee spends working on the CDBG project. It is important to note that time sheets must demonstrate the time spent solely on the CDBG project. This method requires source documentation of all costs at time of monitoring.

Section 4.7 Procurement of Professional Services

This section describes steps that are required to help ensure grantees comply with federal and state procurement requirements in the procurement of professional services. Professional services must be procured for each new CDBG grant awarded by DOH.

Step 1: Prepare the RFP/RFQ The Grantee must prepare an (RFP). An example of an RFP and RFQ are provided as Attachment 4-4 and Attachment 4-5.

[Attachment 4-4:
Sample Request for Proposals](#)

[Attachment 4-5:
Sample Request for Qualifications](#)

Step 2: Solicit Responses In order to meet the goals of MBE/WBE participation; the Grantee must submit the RFP/RFQ to the Connecticut Department of Administrative Services, Small and Minority Business Division (DAS) and/or publish in a minority newspaper.

Step 3: Publish RFP/RFQ The Grantee must advertise the RFP/RFQ at least once in a newspaper of daily circulation. A formal legal advertisement is required. An example of the advertisements are provided as Attachment 4-6 and Attachment 4-7. Proposals are due no sooner than 7 days following the date of publication of the legal advertisement. Evaluation criteria should include:

[Attachment 4-6:
Sample RFP Publication](#)

[Attachment 4-7:
Sample RFQ Publication](#)

- Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project.
- Past record of performance on contracts with the locality and other clients, including quality of work, timeliness, cost control, and citizen's complaint resolution in a timely manner.

- Capacity of firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm.
- Familiarity of the firm with the type of problems applicable to the project.
- An evaluation consideration to small, local, minority or female owned firms. These firms may be awarded extra points in order to promote the employment of these firms.

The relative importance of each of these factors should be determined beforehand by assigning values to each (e.g., experience may be assigned 30 points out of a possible 100 points).

Step 4: Establish Evaluation Committee Appoint an evaluation team of knowledgeable members (town council, board of public works members, etc.) and develop an evaluation plan to rank respondents and provide guidance during the selection process. Typically three to five people make up the Evaluation Committee. At least one of the committee members should be the Chief Elected Official (CEO) or designee. An example of a scoring criteria evaluation document is Attachment 4-8: Professional Services Evaluation.

[Attachment 4-8:
Professional Services
Evaluation](#)

Step 5: Open Responses Proposals must be received at the address stated in the legal advertisement, logged in and stamped with the date and time received prior to being opened and submitted to the Evaluation Committee for review. Any proposal not received by the date and time stated in the legal advertisement must be returned, unopened to the submitter.

Step 6: Short List Vendors The purpose of the evaluation process is to select the responders whose proposals meet all of the criteria required in the solicitation. The committee must select two or more of the responders for interviews.

Step 7: Conduct Interviews The Grantee is required to contact the firms selected, in writing with the time, date and location of the interview. A sample letter is provided as Attachment 4-9: Short List Letter. The Grantee must also notify those who will not be interviewed. A sample letter is provided as Attachment 4-10: Non Short List Letter. On occasion, a Grantee may receive only one proposal. That respondent must be interviewed before the scoring committee. The interview may be conducted via conference call. DOH will accept a letter of justification for not re-procuring services if the community has a history with the firm and feels comfortable accepting the proposal without re-soliciting the services.

[Attachment 4-9:
Sample Short List Letter](#)
[Attachment 4-10:
Sample Non Short List Letter](#)

Step 8: Make Vendor Selection If interviews are conducted, each member of the Evaluation Committee must complete an Interview Evaluation and Score Sheet for each vendor short listed. See Attachment 4-11: Interview Evaluation Form. Each scorer must use the same scoring and weighting criteria making their best effort to score each proposal fairly and without bias. These documents will be required at monitoring. Following the Evaluation Committee's review, the vendor whose proposal is determined to be the most advantageous to the project, based upon qualifications, price and other factors may be selected.

[Attachment 4-11:
Sample Interview Evaluation
Form](#)

Caution: Be aware of potential conflicts of interest. Some firms have the capacity to administer projects and design buildings or public facilities systems. It is considered a conflict of interest for the firm in charge of administration to also be in the position to oversee the engineering for a project. There can also be conflicts in the areas of rehab inspection, lead based paint testing, surveying, etc.

Step 9: Notify Successful and Unsuccessful Proposer(s) The Grantee must notify all successful and unsuccessful vendors, in writing.

Step 10: Execution of Contract(s) The Grantee may execute contracts with the successful vendor after they have received Release of Funds from DOH.

Step 11: Prepare a Contract: Once a firm is chosen and the basis of selection is documented along with the reasonability of cost, it is time to start the preparation of a contract with the successful individual or firm. See [Chapter 10: Contracts and Modifications](#) for information on contract requirements.

Section 4.8 Pre-Bidding Requirements

The first step in effective management of CDBG-funded construction projects is the preparation of a bid package. This requires the writing of the technical bid specification – usually by an architect or engineer on the basis of prepared plans or working drawings. These specifications must provide a clear and accurate description of technical requirements for materials and products and/or services to be provided in the contract. The contract must be consistent with applicable building codes. Additionally, the plans and specifications for non-residential construction must be stamped by an architect or engineer registered in Connecticut. While the engineer/architect prepares the technical specifications, the Grant Administrator must determine the applicability of Labor Standards and request the necessary wage decisions.

NOTE: The environmental review must be completed prior to publishing the bid advertisement. Please refer to [Chapter 2: Environmental Review](#) for more information.

Property Acquisition Issues

At this stage of the process, the grantee must have obtained all lands, rights-of-way, and easements necessary for carrying out the project. All property to be acquired for any activity, funded in whole or in part with CDBG funds, is subject to the Uniform Relocation Assistance and Real Property Acquisitions Policies for Federal and Federally Assisted Programs (42 U.S. Code Chapter 61), also referred to as the Uniform Act or URA. Included in the definition of property, among other things, are rights-of-way and easements. If the construction project involves real property acquisition, the grantee should contact its DOH Program Manager very early and make sure the acquisition is done according to the provisions of the Uniform Act. See [Chapter 5: Acquisition](#) for additional information.

Section 4.9 Procurement of Construction Services

This section describes certain key steps that are required to help ensure grantees comply with federal and state procurement requirements when procuring construction services:

Step 1: Obtain the Appropriate Wage Decision

The DOL has issued a directive that the Davis-Bacon Wage Determination that is in effect on the day of bid opening is the wage decision that must be used for all construction on federally funded projects. In order to comply with that requirement, DOH has assigned the responsibility of obtaining the appropriate wage decision(s) for a project to the Grantee or its designee. An initial wage decision should be obtained prior to issuing the IFB and provided to the Architect or Engineer to be included in the project bid specifications. The Grantee will need to access the DOL website in order to obtain the Davis-Bacon Wage Determination for the project. The printed copy of the effective wage decision will be required at monitoring. Please refer to [Chapter 9: Labor Standards](#) for more information.

Department of Labor Online Wage
Determinations
<https://wdolhome.sam.gov/>

Step 2: Prepare Invitation for Bid (IFB)

The grantee must develop an IFB that clearly identifies the services required including: all technical specifications required, any other requirements that apply to the contract, and instructions for preparing and submitting a bid. Bid specifications may not identify a specific name brand or provider except if required to identify a piece of equipment necessary for completion of the project. In this instance, the name brand or provider must be followed with the terminology, 'or approved equals.' It is the responsibility of the Grantee to provide the bid specifications preparer with the required contract provisions, as specified in the Assistance Agreement, and the Davis Bacon or State Prevailing Wage Decision applicable to the project. The bid specification must include [Attachment 4-16: Certification of BABA Requirements](#) and [4-17: BABA Materials Certification](#). The bid specifications must include a statement that the Wage Decision is subject to change and the one that is in effect on the date of the bid opening will be applicable to the total project if the contract is awarded within 90 days of bid opening. If not, the applicable Wage Decision becomes the one that is in effect on the date that contracts are signed.

Step 3: Submit Entire Invitation to Bid Package to Architectural and Technical Services (ATS) (excluding single-family housing projects)

The Grantee must submit the entire bid package for any construction project, excluding single-family housing, to DOH for review and approval prior to publishing the IFB. Bid packages must be sent to doh.constco@ct.gov, and copy your Small Cities Program Manager.

[Attachment 4-12:
Sample IFB Publication](#)

Step 4: Publish Invitation for Bid (IFB) Advertisement

The IFB must be advertised in the newspaper of daily general circulation in the jurisdiction at least one time not less than 7 days before the date set for the opening of bids. This 7-day minimum bidding period is accepted by DOH but it is advised that communities give bidders more time. The IFB must state the date, time and location for submission of bids. The legal advertisement must provide information pertaining to where the project plans and specifications may be obtained or reviewed. In order to obtain the highest level of free and open competition, publishing the IFB in well-known trade journals and/or sending a copy of the IFB to the area's local contractors may increase the number of responses received. An example of an IFB advertisement is provided as Attachment 4-12: Sample IFB Publication.

Step 5: Solicit MBE/WBE Responses

In order to achieve the State's 25% MBE/WBE goal, a copy of the IFB advertisement must be submitted to DAS, Small and Minority Business Division and/or published in a minority newspaper.

Step 6: Issue Addenda

If the bid document is amended during the advertisement period, addenda must be sent to all bidders who have received bid documents. However, addenda may be issued only up to 72 hours of bid opening. If an addendum is necessary within the 72-hour period before the scheduled bid opening, the bid opening date must be extended exactly one week. All bidders must be sent copies of each addendum and evidence of notification must be maintained in the bid files. (Any revision to the wage determination must also be distributed as an addendum.)

Step 7: Confirm Wage Rates

Ten days before bid opening, the grantee must check DOL Online to determine if there have been any modifications or revisions to the Davis-Bacon wage rate decision. If it is determined during the "ten-day call" that there has been a modification, the grantee will then send it as an addendum to all contractors who received the original bid package no later than 72 hours prior to bid opening.

[Attachment 4-13:
Sample Bid Tabulation](#)

Step 8: Receive Bids

As bid packets arrive, the time and date the bid was received from the vendor is written on the outside of the bid packet. Any bid received after the date and time due must be rejected and returned to submitter unopened.

Step 9: Open Bids

Bids must be opened and read aloud at a public meeting, at the date, time and location stated in the legal advertisement. The bidder's name and amount of bid must be read and recorded in the minutes of the bid opening meeting. No action should be taken at the bid opening meeting except by order of the CEO to take the bids under advisement. Bid opening meeting minutes and a sign in sheet of all attendees must be maintained for the project records and will be required at Release of Funds. If all bids exceed the amount budgeted for construction costs, the Grantee has only two options. The local funds budget may be increased to cover the additional costs or all bids may be rejected and the CEO may instruct the Architect or Engineer to revise bid specifications and rebid the project in an attempt to bring construction costs to within the project budget. The project may not be altered or changed to eliminate any part of the original project scope.

Step 10: Review Bids and Make Vendor Selection

The Competitive Sealed Bid method of procurement requires that the construction contract be awarded to the lowest bidder, provided that the lowest bidder is found to be a responsive and responsible bidder. If the

bids received are within the project budget, the Architect or Engineer will review all bid packages to determine if each one is responsive and responsible and the Grantee's legal counsel will verify that the bonding and certification requirements outlined in the bid specifications have been included. Upon completion of these reviews, the Architect or Engineer will prepare a bid tabulation sheet, see Attachment 4-13: Sample Bid Tabulation, and a written statement to the Grantee making a recommendation of the lowest responsive and responsible bidder. The bid tabulation must be certified (stamped) by the project Architect or Engineer. If the low bidder is found to be unresponsive or irresponsible and is not recommended by the project Architect or Engineer, the Grantee's legal counsel must be consulted prior to making the determination to reject the lowest bid and consider the second lowest bidder. A written legal opinion must accompany all procurement documents where the low bidder was not selected in case of a formal bid protest or possible litigation.

[Attachment 4-13:
Sample Bid Tabulation](#)

Step 11: Award the Contract

After review of the bids, the grantee must award the contract to the lowest responsible and responsive bidder if his/her bid is within the budgeted amount, preferably within 30 days of the opening. (A contract is awarded by official action of the local governing body.)

Caution: Contracts are to be awarded within a 90-day period. If contracts are not awarded within 90 days of bid opening, any wage rate modifications that occurred within that 90-day period will apply to the contract. If bids are held longer than 90 days, the grantee must make a "90- Day Call" to DOH to determine if any modifications have occurred.

If the contract is awarded to a bidder other than the low bidder, the grantee must prepare a written statement explaining why each lower bidder was deemed non-responsive or non-responsive.

- To be responsive, the bidder must have submitted all required documentation. However, the responsiveness criteria must be uniformly applied to all bidders. If one bidder is rejected for failing to submit a particular document, for example, all bidders failing to submit that documentation must be rejected.
- The Grantee must document that the organization (including all contractors and subcontractors) are not on the lists detailed in the Excluded Parties section above with screenshots or other proof the organization is not debarred.
- The bidder may also be determined non-responsive if, in the grantee's judgment and the judgment of the consulting professional, the bid is so unreasonably low that the project cannot be constructed for the amount bid. This is often a problem with inexperienced contractors. The grantee should always contact its attorney and its DOH Program Manager if the grantee must award to other than the low bidder.

Step 12: Execute the Contract

Once the bidder is accepted and the reasonability of cost is established, the grantee may execute the contract (provided they have received Release of Funds from DOH) and schedule a Preconstruction

Conference.

Following award of the contract, the contract documents and applicable bonding and insurance must be completed and executed. Contract documents include all the items contained in the bid package as well as the executed contract, bid proposal, contractor certifications, and bond and insurance forms. See [Chapter 10: Contracts and Modifications](#) for information on contract requirements.

Step 13: Submit Selected Bid Package and Contract Documents to ATS

The Grantee must submit the entire bid package from the selected vendor to ATS including the Contract Award, Contract Documents, BABA Materials Certification, Notice to Proceed, Bid Tabulation, and explanation of selection bidder if not the lowest bidder. Documents are submitted to doh.constco@ct.gov copying the Small Cities Program Manager.

If there is a change or addition of products or materials that were listed on the original Materials Certification, an updated itemization must be submitted to ATS, copying the Small Cities Program Manager, with the Change Order to ensure BABA requirements are implemented as needed.

[Attachment 4-17:
Materials Certification](#)

Step 14: Submit Interim Monitoring Checklist

Once a contract has been executed and construction has started, the grantee must begin submitting the Interim Construction Monitoring Checklist to the DOH Construction Specialist. More information on monitoring is included in [Chapter 12: Monitoring and Closeout](#).

[Attachment 12-1
Interim Monitoring
Checklist](#)