**Procurement**

**Applicable Statutes**
- OMB Circular A-102- Uniform Administrative Requirements (State & Local Governments)
- OMB Circular A-110 - Uniform Administrative Requirements (Not-for-Profits)
- OMB Circular A-87- Cost Principles (State and Local Governments)
- OMB Circular A-122 -Cost Principles (Not-For-Profits)
- OMB Circular A-133-Audits

**Applicable Regulations**
- Non-profit entities: 24 CFR 84.40 – 84.48
- Two Governmental entities: 4 CFR 85.36

**Questions and Answers**

*How does procurement impact NSP?*

Grantees and subrecipients may carry out NSP activities by using the services of contractors. For example, a grantee that intends to rehabilitate a multifamily residential property that it owns may hire a construction contractor to perform the rehabilitation. In order to use NSP grant funds to pay for the services of that contractor, the contractor’s services must be obtained in accordance with the procurement requirements applicable to Federal grants.

Grantees and subrecipients may also find it necessary to acquire equipment and supplies for use in carrying out activities. In such cases, these items must also be procured in accordance with the applicable procurement requirements.

The procurement requirements for governmental grantees/subrecipients are found at 24 CFR 85.36. The procurement requirements for non-profit grantees/subrecipients are located at 24 CFR 84.40 – 24 CFR 84.48.

The requirements for both categories of grantees/subrecipients are similar, but the requirements for non-profit entities are generally more flexible.
**Who does it apply to?**

The requirements apply to the procurement of property and services by a grantee or a subrecipient.

Note: Developers and contractors are not required to follow the procurement requirements applicable to grantees and subrecipients.

**Who will enforce it?**

HUD will enforce requirements applicable to grantees. Grantees are responsible for ensuring compliance by their subrecipients.

**When does it apply (triggers)?**

The procurement requirements apply whenever a grantee or subrecipient uses grant funds (or program income) to pay for property or services provided by a third party.

Note: Procurement requirements do not apply to the acquisition of real property pursuant to 24 CFR 570.201(a), which is governed by the CDBG regulations and the various NSP notices. If the supplies, services, or other property to be acquired will cost no more than $100,000, the grantee/subrecipient may follow the relatively simple and informal procedures under the small purchase method of procurement. If the cost will exceed $100,000, the grantee/subrecipient should follow the method most appropriate to the nature of the procurement:

- The sealed bid method of procurement is more appropriate when the award can be made to a responsible bidder primarily on the basis of price (e.g., for construction services).
- The competitive proposal method of procurement is most appropriate for the acquisition of services when the decision is based on several factors (e.g., experience, technical qualifications, and price).
- The non-competitive method of procurement should not be used unless one of the other competitive methods is infeasible (e.g., the item is available from a single source).

Governmental grantees/subrecipients must follow one of the four methods described above. Non-profit grantees/subrecipients are not required to follow one of these methods, but must use a method which provides, to the maximum extent practical, open and free competition. Grantees and subrecipients should ensure that offerors and bidders comply with the requirements of Section 3 of the Housing and Community Development Act of 1968. Solicitations should clearly set forth all requirements that the offeror or bidder must fulfill in order for the offer or bid to be evaluated by the grantee/subrecipient.

**Who was the law intended to protect?**

The procurement requirements are intended to preserve and protect public confidence in the integrity of the contracting process by fostering full and open competition, selection of responsible contractors, and adherence to high ethical standards. Grantees/subrecipients will obtain property and services from qualified suppliers at the lowest cost.

Contractors and vendors will be given a fair opportunity to compete for business and will be protected from conflicts of interest. Taxpayers will be confident that public funds are not wasted.
**How do you document compliance?**

Grantees and subrecipients must maintain complete records of all procurement transactions. Such records should include, but not be limited to, procurement documents (e.g., invitations for bids, requests for proposals, evaluation sheets, and price/cost analyses). The records should also include copies of contracts awarded to successful contractors.

Grantees should incorporate these recordkeeping requirements in agreements with subrecipients.

**Where can additional resources be found?**

- [http://hudnsphelp.info/media/resources/ProcurementWebinar_Slides.pdf](http://hudnsphelp.info/media/resources/ProcurementWebinar_Slides.pdf)

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Locate an NSP Grantee

http://hudnshelp.info/index.cfm?do=viewGranteeAreaResults