
CHAPTER 3: PROCUREMENT REQUIREMENTS

DEHCR – BUREAU OF COMMUNITY DEVELOPMENT



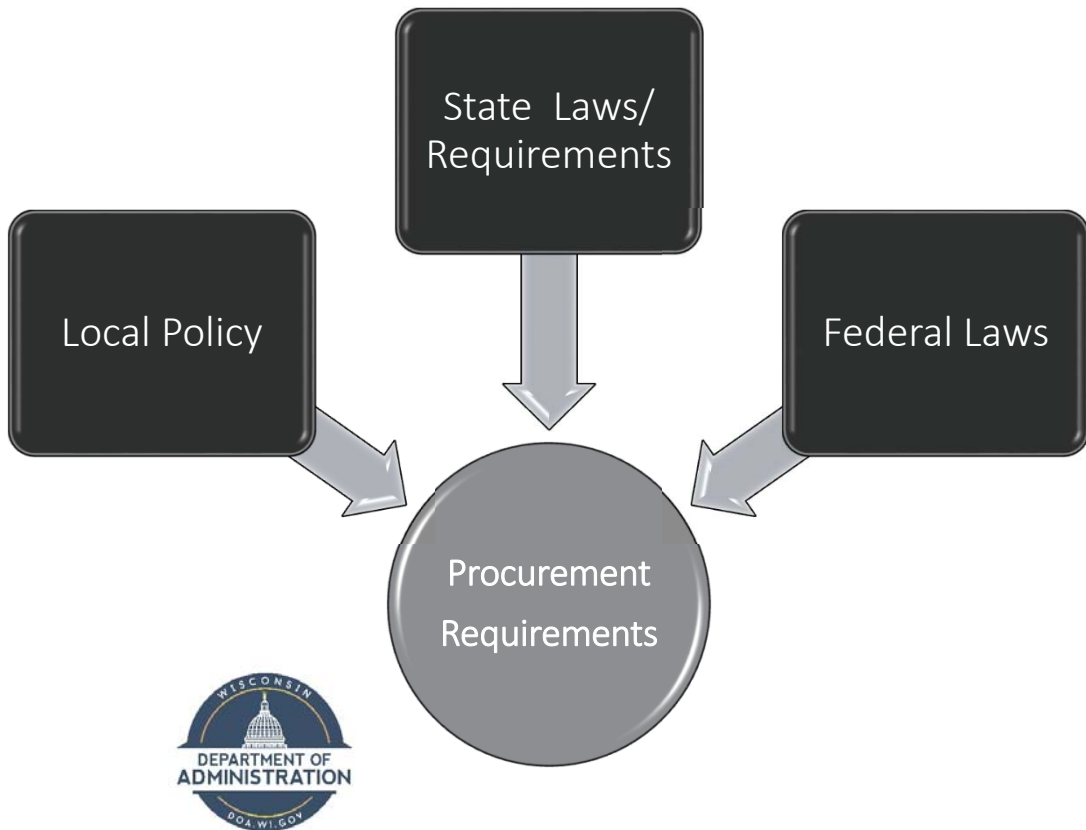
PROCUREMENT CONNECTION TO OTHER REQUIREMENTS

1. Conflict of Interest and Lobbying
2. Equal Opportunity / Affirmative Action
3. Labor Standards



CDBG PROCUREMENT REQUIREMENTS

1. Federal Laws
2. State Laws / Requirements
3. Local Policy



LOCAL PROCUREMENT POLICY: BEST PRACTICES

(24 CFR PART 85.35-85.36)



- Open and free, fair competition



- Economy and efficiency



- Checks and balances



- Roles and Authorities of Employees and Officials



- Cost or price analysis

RESTRICTIVE OF FREE AND OPEN COMPETITION

- Unreasonable qualifying requirements
- Unnecessary experience/excessive bonding requirements
- Specifying only brand name products
- Non-competitive pricing practices
- Non-competitive contract awards



WISCONSIN STATUTES ON PROCUREMENT FOR PUBLIC WORKS

Statute	Requirement Topic
66.0901	General for Municipality: Public works, contracts, bids
59.03 - 59.04, 59.06	Counties: Home rule, construction of powers, county property
60.47	Towns: Public contracts and competitive bidding
61.50, 61.54 - 61.57	Villages: Ordinances, contracts, public works, acquisition of recycling or resource recovery facilities without bids
62.15	Cities: Public works



PROCUREMENT DECISIONS:

In-House:

- No procurement process required

3rd Party Contract:

- Procurement requirements apply

Construction / Construction-Related Contract(s)	Professional Services / Non-Construction Contract(s)
<ul style="list-style-type: none"> • State/Federal Regulations compliance required • Competitive procurement required unless exception approved 	<ul style="list-style-type: none"> • CDBG funded – State/Federal Regulations and Local Policy compliance and competitive procurement required (depending on type of procurement) • Match Funded – Local Policy compliance required; some State/Federal Regulations apply (general procurement guidance)



PROCUREMENT: POTENTIAL CONFLICTS OF INTEREST

RESPONSIBILITIES

- Local Policy/Ordinance
- Disclosure
- Review
- Notice to DEHCR
- Exception Requests
- State/Federal Law and CDBG Program Compliance
- Recordkeeping



POTENTIAL CONFLICT OF INTEREST DISCLOSURE

Brick Street Infrastructure Improvements
Village of Emerald City

Do you have family or business ties to any of the people listed below?
Yes No X

If yes, please check the box next to the name(s) of the individual(s) and describe the relationship in the space provided below:

ELECTED OFFICIALS:

- Barbara Cordry, Village President
- Russell Wellington, Board Member
- Gabriel Collins, Board Member
- Charlie Bien, Board Member
- Mo Letters, Board Member
- Dorothy Baum, Clerk/Treasurer/Board Secretary

VILLAGE ADMINISTRATION, DEPARTMENT HEADS AND LEGAL COUNSEL:

- James Haggerty, Village Administrator
- Peter Harper, Village Attorney
- Michael Carter, Director, Department of Public Works

ENGINEERING AND CONSULTING FIRM(S):

- Celeste Middleton, CEO, Charles Dark Engineering

Description of Relationship(s):

Please Note: The name of any bidder with a potential conflict of interest will be disclosed at the Emerald City Village Board meeting in which bids are discussed. Potential conflicts of interest will be reviewed in accordance with 24 CFR 570.489(h).

Clive Dillon
Printed Name of Individual

President
Title

Clive Dillon 33
Signature

Bertos Construction Company
Name of Business/Firm/Company

January 27, 2018
Date Signed [MM/DD/YYYY]

SAMPLE

DEBARRED & INELIGIBLE CONTRACTORS

- *The UGLG must ensure awards are not made to any party which is debarred or suspended, or is otherwise excluded from or ineligible for participation in federal assistance programs. (Executive Order 12549, 24 CFR 85.35)*
- Check status of contractors and sub-contractors on System of Award Management (SAM) website: <https://SAM.gov>



EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION IN PROCUREMENT

Must take affirmative steps to:

- Use of local, small businesses (other factors beyond location must also be considered)
- Use of minority-owned and/or women-owned enterprises MBE/WBE)
- Use labor surplus area firms
- Award contracts to eligible businesses located in or owned by residents of the area to ensure that economic opportunities generated from the project shall, to the greatest extent feasible, be directed toward low- and very-low income persons



EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION IN PROCUREMENT (CONTINUED)

Strategies:

- Incorporate eligible businesses (e.g., MBE, WBE, DBE) in solicitation whenever they are potential sources
- Ensure eligible businesses are solicited when identified as potential sources
- Divide procurement requirements, when economically feasible, to permit maximum participation of eligible businesses
- Require prime contractors, when subcontracts are let, to take affirmative steps to select eligible firms



WISCONSIN VENDORNET SYSTEM

<https://vendornet.wi.gov/>

MBE/WBE Registration and
Vendor/Firm Search:

<https://doa.wi.gov/Pages/DoingBusiness/SupplierDiversity.aspx>

VendorNet **Registration** Bids Contracts NIGP Codes **Forms** **General Procurement** FAQ Contact Us Login

Welcome to VendorNet

VendorNet provides easy access to a wide variety of information of interest to vendors who wish to provide goods and services to the state as well as state agencies and municipalities. Bidding and the time required to identify new vendors is minimized while vendors are automatically notified of opportunities in their area of interest.

General information on how to do business with the state, names, addresses and telephone numbers of state agency procurement staff, and a summary of what the state buys.

Please note, **VendorNet does not provide information on highway or construction projects**; VendorNet is related to purchases of goods and services only. Please see the [Department of Administration, Division of Facilities Development](#) Web site for information on construction projects and the [Department of Transportation](#) for road and airport construction projects.

Vendors and Businesses

[Lookup Agency Acronyms](#)
[Vendor's Guide](#)
[VendorNet 2.0 Guide for Public Use](#)

VendorNet Information Center
Hours: 8:00 a.m. - 4:30 p.m. M-F

Local (608) 264-7897
Toll Free (800) 482-7813
Fax (608) 267-0600

Tips on Doing Business with the State of Wisconsin

- Read the solicitation documents thoroughly and follow all instructions and conditions. Failure to do so could result in the rejection of your submittal.
- Make sure your solicitation is submitted before the specified due date.
- Follow up on your submittal, search the archived solicitations to find who won the award.
- Get to know the purchasing needs of various state agencies. Much of this information can be obtained by reviewing the solicitations and contracts on VendorNet.
- Maintain a good reputation for service and reliability.
- Ask questions; depending on the situation, you can contact the individual that has conducted the solicitation or the State Bureau of Procurement.

37

PROCUREMENT: LOBBYING CERTIFICATION

GRANTEE/UGLG NAME: Village of Burkittsville
 DEHCR GRANT AGREEMENT #: PF17-99

LOBBYING CERTIFICATION FROM THE

- Municipality/UGLG: _____
 Contractor/Sub-Contractor
 Other: _____

The undersigned certifies, to the best of his/her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Vanir Construction
 Name of Municipality/UGLG/Business/Firm

Harley Jorgeson
 Signature of the Chief Elected Official, Owner, or Chief Executive Officer

Owner Title 38
01/10/18 Date Signed

Harley Jorgeson
 Printed Name of the Chief Elected Official, Owner, or Chief Executive Officer



PROCUREMENT: PROHIBITED PRACTICES

- No Loss-Leader Arrangements:

Discounted or free grant application preparation or preliminary engineering estimates in exchange for contract award if application is funded is not allowed

- No Multiple-Services Procurement and Contracting

- Exception 1: UGLG seeks to use same firm for preliminary engineering planning and project engineering (PF)
- Exception 2: UGLG seeks to use same firm for grant preparation and administration (PF)
- Exception 3: UGLG seeks to use same firm for planning grant application and implementation (PLNG)



MULTIPLE-SERVICES PROCUREMENT & CONTRACTING

- Exceptions still require separate procurement and contracting processes:

PF: One (1) contract for preliminary and project engineering

PF: One (1) contract for grant application and administration

PLNG: One (1) contract for planning application and implementation



TYPES OF PROCUREMENT

Small Purchase / Simplified Acquisition	Competitive Sealed Bid	Competitive Proposal	Non-Competitive Proposal / Sole-Source
<ul style="list-style-type: none"> • Provision of 24 CFR 85.36(d)(1) • Allowed for contracts \$50,000 or less (\$25,000 or less for construction contracts) • Typically for small quantity of supplies or other small contracts • Written quotes from a minimum of 3 providers required • Solicit in writing; quotes submitted in writing (Exception for contracts >\$500 may be obtained and recorded by solicitor) • Select lowest responsible quote • Inform all responders in writing of decision/selection • May require approval by governing body (subject to local procurement policy requirements) 	<ul style="list-style-type: none"> • Provision of 24 CFR 85.36(d)(2) • Required for contracts >\$50,000 (>\$25,000 construction) • For construction contracts, other large contracts, or large quantity of supplies • Principally based on price; fixed-price contract • Open public bidding required: public advertisement, adequate time to respond, and bids opened publicly • Receive 2 or more responsible bids • Award in writing to lowest responsible bidder • Approval by governing body required 	<ul style="list-style-type: none"> • Provision of 24 CFR 85.36(d)(3) • Most appropriate for professional services • Request for Qualifications [RFQ] (permitted for engineering/architectural services only) or Request for Proposals [RFP] • Use pre-established evaluation criteria/scoring method • Committee review/evaluation to select provider • Most qualified competitor selected, subject to negotiation of compensation • Awarded as fixed price or not-to-exceed contract • May require approval of governing body (subject to local procurement policy requirements) 	<ul style="list-style-type: none"> • Provision of 24 CFR 85.36(d)(4) • Solicitation from one (1) source • Generally prohibited for CDBG projects • May be allowed under certain circumstances (e.g., under urgency or limited supplier provisions within the Code of Federal Regulations) • DOA-DEHCR approval of method required before contracting

COMPETITIVE SEALED BID

- Advertise the invitation for bids; provide sufficient time to respond (*note Conflict of Interest considerations*)
- Invitation for bids must include:
 - Accurate specifications
 - Pertinent attachments (per CDBG procurement, labor, environmental, and EO standards)
 - Clearly defined items or services needed, in sufficient detail for bidder to properly respond
- Bids opened publicly at time and place stated in invitation for bids



COMPETITIVE SEALED BID

- Must receive 2 or more responsible bids for each procurement transaction
- Select lowest responsive and responsible bid*
- Check for debarment
- Upon award, enter fixed-price contract

*UGLG can decide not to make award to any bidders and may re-bid the project under certain conditions (e.g., bids are not responsible or proposals do not contain information necessary to evaluate bids)

COMPETITIVE SEALED BID CDBG MONITORING CONSIDERATIONS

- Was the process conducive to open and free competition?
- Was the process fair?
- What “best efforts” were made to access qualified sources, provide equal opportunity, and solicit an adequate number of bids?
- Did the bid documents include the required information and supporting data and documents in order for competitors to appropriately respond?
- Were conflicts of interest disclosed and addressed?
- Is/Are the record(s) for debarment check(s) on file?
- Are all required bid documents on file?



COMPETITIVE PROPOSAL: PROFESSIONAL SERVICES

Request for Proposals (RFP) & Request for Qualifications (RFQ)

- CDBG Funded (in whole or in part):


 - UGLG must follow local procurement policy and meet state and federal requirements

- Non-CDBG Funded:

 - UGLG must follow local procurement policies



PROFESSIONAL SERVICES: COMPETITIVE PROPOSAL EVALUATION CRITERIA



Expertise	<ul style="list-style-type: none">• Specialized experience• Technical expertise
Past Record of Performance	<ul style="list-style-type: none">• Quality of work• Timeliness• Cost control
Capacity to Perform	<ul style="list-style-type: none">• Within time limitations• Current & planned workload
Familiarity with Type of Project	<ul style="list-style-type: none">• Nature of work• Problems associated with it

PROFESSIONAL SERVICES: COMPETITIVE PROPOSAL RFP CONTENT

- Technical requirements for goods/services required
- Scope of services
- Type of Contract (reimbursement, fixed, etc.)
- Cost and pricing data
- Start/completion dates
- Evaluation criteria for ranking proposals
- Project information (e.g., reports, maps, site plans)



STEPS FOR COMPETITIVE PROPOSAL RFP

1. Prepare and publicize Request for Proposals (RFP)
2. To maximum extent practicable, honor reasonable requests to give opportunity to compete
3. Access adequate number of qualified sources, consistent with nature and requirements of the procurement
4. Conduct technical evaluation of proposals to identify responsible offers
5. Evaluate price and other factors through scoring the proposals according to predetermined criteria
6. Check for debarment
7. Award contract to most responsive and responsible contractor/most advantageous source (highest score)

PROFESSIONAL SERVICES: COMPETITIVE PROPOSAL RFQ

ARCHITECTURAL/ENGINEERING (A/E) SERVICES ONLY

- Request for Qualifications (RFQ) from qualified sources
- Review and rank Statements of Qualifications
- Select most qualified source
- Price is NOT used as a selection factor
- Subject to fair and reasonable compensation
- Geographic location is allowed as a selection criterion, provided it results in appropriate number of qualified firms allowed to submit qualifications for consideration

COMPETITIVE PROPOSAL CDBG MONITORING CONSIDERATIONS

- Was the process conducive to open and free competition?
- Was the process fair?
- What “best efforts” were made to access qualified sources, provide equal opportunity, and solicit an adequate number of proposals?
- Did the RFP/RFQ documents include the required information and supporting data and documents in order for competitors to appropriately respond?
- Were conflicts of interest disclosed and accounted for?
- Is/Are the record(s) of debarment check(s) on file?
- Are all required proposal documents on file?

CONTRACTING LANGUAGE/DOCUMENTS

CDBG Implementation Handbook Attachments / Federal Language Requirements for Contracts Executed for a CDBG Project	
Construction Contracts of \$10,000 or LESS	Construction Contracts of GREATER Than \$10,000
<ul style="list-style-type: none"> Attachment 3-B* [Conflict of Interest Disclosure Form] Attachment 3-C* [24 CFR 570.489(h) Conflict of Interest Clause] Attachment 3-D [Lobbying Certification Form] Attachment 3-E (if applicable) [Disclosure of Lobbying Activities Form] Attachment 6-B [Section 3 Contract Language Requirements] Attachment 7-B** [Davis-Bacon and Related Acts (DBRA)] Attachment 7-G [Federal Labor Standards Provisions (4010)] Attachment 7-I* [Pre-Construction Meeting Items to be Discussed] Attachment 7-J* [Pre-Construction Checklist for Contractors] Applicable Davis-Bacon/Federal Wage Decision(s)** 	<ul style="list-style-type: none"> Attachment 3-B* [Conflict of Interest Disclosure Form] Attachment 3-C* [24 CFR 570.489(h) Conflict of Interest Clause] Attachment 3-D [Lobbying Certification Form] Attachment 3-E (if applicable) [Disclosure of Lobbying Activities Form] Attachment 6-A [Equal Opportunity Clause (EO 11246)] Attachment 6-B [Section 3 Contract Language Requirements] Attachment 6-C [Affirmative Action Requirements (EO 11246)] Attachment 6-D [Federal Equal Employment Opportunity Clauses Construction Contract Specifications (EO 11246)] Attachment 7-B** [Davis-Bacon and Related Acts (DBRA)] Attachment 7-G [Federal Labor Standards Provisions (4010)] Attachment 7-I* [Pre-Construction Meeting Items to be Discussed] Attachment 7-J* [Pre-Construction Checklist for Contractors] Attachment 7-R [MBE/WBE/DBA Web Resources] Applicable Davis-Bacon/Federal Wage Decision(s)**

Professional Services and Other Non-Construction Contracts Funded in Whole or In Part with CDBG	Professional Services and Other Non-Construction Contracts NOT Funded with CDBG
<ul style="list-style-type: none"> Attachment 3-B* [Conflict of Interest Disclosure Form] Attachment 3-C* [24 CFR 570.489(h) Conflict of Interest Clause] Attachment 3-D [Lobbying Certification Form] Attachment 3-E (if applicable) [Disclosure of Lobbying Activities Form] Attachment 6-B [Section 3 Contract Language Requirements] 	<ul style="list-style-type: none"> Attachment 3-B* [Conflict of Interest Disclosure Form] Attachment 3-C* [24 CFR 570.489(h) Conflict of Interest Clause] Attachment 3-D [Lobbying Certification Form] Attachment 3-E (if applicable) [Disclosure of Lobbying Activities Form]

**Denotes the Attachment or similar form is recommended to be included in the contract, but it is not required. All other items listed in the category must be included in the contract (cannot be by reference only) unless otherwise noted.*

***Required to be in the contract only if Davis-Bacon and Related Acts (DBRA) are applicable to the project.*

PROCUREMENT MONITORING: CDBG FILE CONTENTS

- ☒ Local procurement policy
- ☒ Procurement method descriptions
- ☒ Copies of quote request, RFBs, RFQs, RFPs and related documents
- ☒ Ad(s) for bids and/or proposals and proof of publication
- ☒ Quotes/bids/qualifications/proposals received and evaluation method(s)
- ☒ Cost and pricing data; bid tabulations
- ☒ Record of contract approval(s) by the governing body
- ☒ Contract(s) for goods/services
- ☒ Conflict of Interest related documentation
- ☒ Records of SAM.gov debarment searches
- ☒ Signed Lobbying Certifications for all contractors
- ☒ Completed Disclosure of Lobbying Activities forms (as applicable)



HELPFUL WEBSITES

- HUD 24 CFR Part 85.36:

http://www.hud.gov/offices/lead/library/lead/24_CFRPART_85.pdf

- Wisconsin VendorNet (State Procurement Guidance):

<https://vendornet.wi.gov/Home.aspx>

- Wisconsin Supplier Diversity Program (MBE/WBE Resource):

<https://doa.wi.gov/Pages/DoingBusiness/SupplierDiversity.aspx>

- HUD Information on Cost and Price Analysis:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/cpo/grantees/cstprice#who

- Wisconsin State Statutes:

<http://legis.wisconsin.gov/rsb/stats.html>

(see 66.0901, 59.03-59.04, 59.06, 60.47, 61.50, 61.54-61.57, 62.15)

QUESTIONS?

Email: DOACDBG@Wisconsin.gov



PROCUREMENT SUMMARY QUESTIONS

1. What procurement guidance must an UGLG follow if CDBG funds are not being used for professional services contracts?
2. What is the name of the DOA website where you may locate registered MBE/WBE firms.
3. When must Section 3 language be included in a contract document for construction? And non-construction?
4. When must MBE/WBE language be included in a contract document for construction? And non-construction?
5. Who must complete a Lobbying Certification form?