| **Procurement Element** | **Federal/State Guidance** | **Documentation**  **(File links and notes)** |
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| **Standard Requirement** | | |
| Written Procurement Procedures  The Common Grant Rule for non-governmental recipients requires the recipient to have written procurement procedures as a condition of self- certification. Procedures are expected to address: 1) Solicitations; 2) Necessity; 3) Lease vs. Purchase; 4) Metric Use; 5) Environmental & Energy Efficiency Preferences; 6) Procurement Methods; 7) Legal Restrictions; 8) Third Party Contract Provisions; 9) Sources; and 10) Resolution of Third Party Contracting Issues | 2 CFR 200.319 (d)1,2  C4220.1F-  III, 3.a | * REQUIRED, no exceptions |
| **Solicitation Requirements** | | |
| Sole Source Pre-Approval  The Federal awarding agency or pass-through entity may authorize a noncompetitive procurement in response to a written request from the non-Federal entity. | 2 CFR 200.320 (c)  C4220.1F – VI, 3.i(1)(e) | * REQUIRED if only one vender responded to the solicitation. * N/A if two or more vendors responded. |
| Independent Cost Estimate  The grantee made and documented an independent cost estimate before receipt of quotes. Make sure this is dated and signed. | 2 CFR 200.324  (a)  C4220.1F –  VI, 6 | * REQUIRED, no exceptions. |
| No Brand Name Restrictions  Either no brand names are used or “brand name or equal” is used in soliciting quotes. The minimum needs and important characteristics of the service or equipment are clearly described. | 2 CFR 200.319 (b)(6)  C4220.1F –  VI, 2.a.(3)  VI, 2.a.(4)(f) | * MUST meet this requirement, no exceptions. |
| Solicitation Prequalification Criteria  There must be a current list that includes enough qualified sources to ensure maximum full and open competition, and potential bidders are not precluded from qualifying during the solicitation period from issuance of the solicitation to its closing date. | 2 CFR 200.319 (e)  C4220.1F –  VI, 1.c | * Most commonly used in procurement of property involving lengthy evaluations. * PERMITTED with small procurements. |
| Adequate Number of Proposals Solicited  When using small purchase procurements, the recipient must obtain price or rate quotations from an adequate number of qualified sources. | 2 CFR 200.320 -(a)(2)(i)  C4220.1F –  VI, 3.b.(2)(a)  VI, 3.c.(2)(b)  VI, 3.d.(2)(c) | * REQUIRED, no exceptions. |
| No Unreasonable Qualification Requirements  The Common Grant Rules prohibit solicitation requirements that contain features that unduly restrict competition. Some situations considered to be impermissibly restrictive of competition include but not limited to imposing unreasonable business requirements for bidders or offerors. | 2 CFR 200.319 (b)(1)  C4220.1F-  VI, 2.a.(4)(a) | * REQUIRED, no exceptions. |
| Geographic Preferences  The solicitation for quotes contains no in-State or local geographic preference except for when procuring architectural or engineering services. | 2 CFR 200.319 (c)  C4220.1F –  VI, 2.a.(4)(g) | * REQUIRED, no exceptions.   + EXCEPT when procuring A&E services |
| Evaluation—Factors Specified in Solicitation  All evaluation factors and their relative importance are specified in the solicitation; but numerical or percentage ratings or weights need not be disclosed. | 2 CFR 200.319 d.(1)(2)  C4220.1F-  VI, 3.d.(2)(b)  VI, 3.d.(2)(d)  VI, 3.d.(2)(e) | * REQUIRED, no exceptions. |
| No Unnecessary Experience & Excessive Bonding Requirements  The solicitation does not impose unnecessary experience requirement, nor does it impose bonding requirements on third party contractors other than construction bonding specified by the Common Grant Rules and the FTA. | 2 CFR 200.319 (b)(2)  C4220.1F-  VI, 2.a.(4)(b)  VI, 2.a.(4)(e) | * REQUIRED, no exceptions. |
| Veterans Hiring Preference  Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. | C4220.1F-  IV, 2.c.(1)(c) | * REQUIRED on construction projects.   + Provide DOCUMENTATION of attempts to solicit veteran owned businesses. * NOT REQUIRED in small procurements. |
| Required Clauses in Solicitations  The grantee included only required clauses based on procurement type and cost. | 2 CFR 200 Appendix II  C4220.1F–  IV, 2  Appendix D | * REQUIRED, no exceptions. |
| Conflict of Interest Form  The solicitation includes a form for bidders to complete in order to avoid or mitigate **organizational** conflicts of interest with prospective contractors prior to award. | 2 CFR 200.318 (c)(1)  C4220.1F –  VI, 2.a.(4)(h) | * Required, no exceptions |
| Clear, Accurate, and Complete Specification  A complete, adequate, and realistic specification or purchase description was available and included any specifications and pertinent attachments that define the items or services sought in order for the bidder to properly respond. | 2 CFR 200.319 (d)(1)  C4220.1F –  VI, 2.a  III, 3.a.(1)(b)  III, 3.a.(1)(d)  VI, 3.c.(1)(a)  VI, 3.c.(2)(c) | * REQUIRED, no exceptions. |
| Solicitation Advertised/Publicized  Procurement solicitations must be publicly advertised and allow adequate time for bidders to respond. | 2 CFR 200.320 (b)  C4220.1F-  VI, 3.c.(2)(a)  VI, 3.d.(2)(a) | * REQUIRED in small procurements. * NOT REQUIRED when obtaining quotes. |
| Minority Contracting  Place qualified small and minority businesses and women’s business enterprises on solicitation lists. Procurements greater than $3,000 but less than $50,000 will need to include contact with at least two HUBs. These can be found on the [Texas Comptroller](https://comptroller.texas.gov/purchasing/vendor/hub/) website. Documentation on file should include a list of minority venders who were contacted to respond to the procurement opportunity. | 2 CFR 200.321 (b)(1)  Texas Government Code, Sec. 252.0215 | * REQUIRED according to regulations.   + Provide DOCUMENTATION of attempts to solicit minority businesses. |
| DBE Goal  Recipients who have or anticipate awarding over $250,000 to prime contractors during the fiscal year (excluding transit vehicle purchases) must set a DBE goal. DBE assurances must be included in procurement solicitations. | 49 CFR Part 26  C4220.1F IV, a.6(a) | * REQUIRED, no exceptions |
| **Selection Procedures and Process** | | |
| Adequate Number of Proposals Received  Two or more responsible bidders are willing and able to compete effectively for the business. | 2 CFR 200.320 (a)(2)(i)  C4220.1F –  VI, 3.c.(1)(b)  VI, 3.d.(2)(c) | * Documentation REQUIRED. * If less than two responses are received:   + Communicate with contractors to learn why they did not respond.   + Reissue solicitation if found to be too restrictive.   + Obtain pre-approval from NCTCOG if solicitation was not restrictive.   + Document evaluation steps and determination in the written record of procurement history. |
| Bid / RFP Opening  All Bids/RFPs were publicly opened at the time and place prescribed in the Bid documents or RFP. | 2 CFR 200.320 (b)(1)(ii)(c)  C4220.1F –  VI, 3.c.(2)(e) | * REQUIRED, no exceptions |
| Sole Source Justification  If only one proposal was received and selected, the contract file contains documentation that award of a contract was infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:   1. The item was available only from a single source. 2. Public exigency for the requirement did not permit delay resulting from a competitive solicitation. 3. An emergency for the requirement did not permit a delay resulting from a competitive solicitation. 4. The FTA authorized noncompetitive negotiations. 5. Competition was determined inadequate after solicitation of a number of sources. | 2 CFR 200.320 (c)  C4220.1F –  VI, 3.i.(1)  VI, 3.i.(1)(b)  VI, 3.i.(1)(c)  VI, 3.i.(1)(c)  VI, 3.i.(2) | * REQUIED if only one vendor responded. * NOT REQUIRED if two or more bids/proposals received. |
| Cost or Price Analysis  Either a cost or price analysis must be performed prior to the initial contract award and upon the exercise of an option, contract modification or change order.   * Price analysis is used when competition is adequate/price within range of ICE. This is usually for commercial/regular items. Price from supplier should be compared with market prices. * Cost analysis is used when competition is inadequate/price not within range of ICE. This is usually for non-regular purchases. Costs should be broken down, review profit separate from cost to see if reasonable | 2 CFR 200.324 (b)  C4220.1F –  VI, 6.a  VI, 6.b  VI, 6.c | * Price Analysis – REQUIRED to determine price reasonableness.   + Use of a pre-printed form is permissible.   + An abbreviated format may be used with micro-purchases. * Cost Analysis – REQUIRED   + WHEN a Price Analysis will not provide sufficient information to determine price reasonableness. * EXCEPTION: When price reasonableness can be justified based on catalog or market price, a cost analysis is not required. |
| No Organizational Conflict of Interest  The grantee evaluated potential organizational conflicts with prospective vendors to avoid or mitigate potential conflicts prior to award. | 2 CFR 200.319 (b)(5)  C4220.1F –  VI, 2.a.(4)(h) | * REQUIRED, no exceptions.   + NOTE: Individual/Personal COI documentation does not meet the requirement for Organizational COI. * FORM 1295 is ACCEPTABLE |
| Evaluation—Specified Factors Applied During Selection  The grantee evaluated bids or proposals only on the evaluation factors included in the solicitation documents. | 2 CFR 200.319 (d)(2)  2 CFR 200.320 (b)(2)(i) and (ii)  C4220.1F –  VI, 7(a) | * REQUIRED, no exceptions. |
| Evaluation of Options  The option quantities or periods contained in the contractor’s bid or offer were evaluated in order to determine contract award. (To be eligible for Federal funding, options must be evaluated as part of the price evaluation of offers or must be treated as sole source award.) | C4220.1F –  IV, 1.d  V, 7.a.(1)  VI, 7.b | * REQUIRED and MUST BE documented.   + If option costs and terms are not evaluated during and documented in the original agreement, each option exercised will be considered a sole source and sole source procurement procedures must be followed. |
| No Debarment or Suspension  Proof that a check of the Excluded Parties List System (EPLS), which is a part of the System for Awards Management (SAM) at: [www.sam.gov](http://www.sam.gov/) was done. | 2 CFR Part 180  2 CFR 200.214  41 U.S.C. 2313  C4220.1F –  IV, 2.a.(2) | * APPLIES to all contracts whose total cost is or will be >$25k at the end of the term. Contract term = base + option years. Must be completed and dated before the agreement is signed. |
| Policy Board Approval of Procurement Award  If required by grantee’s procurement policy | Agency Procurement Policy / Procedures | * REQUIRED according to the organization’s procurement policy. |
| Award to Responsible Contractor  The grantee made a determination that it was awarding to a responsible contractor considering such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. | 2 CFR 200.318 (h)  C4220.1F –  VI, 8.b | * REQUIRED, no exceptions. |
| No Arbitrary Action  An example of arbitrary action is when award is made to a contractor other than the one who most satisfied all the grantee’s requirements as specified in the solicitation and as evaluated by staff. | 2 CFR 200.319 (b)(7)  C4220.1F –  VI, 2.a.(4)(j) | * REQUIRED, no exceptions |
| Written Record of Procurement History  At a minimum, these records include:   1. Rationale for the method of procurement, 2. Selection of contract type, 3. Reasons for contractor selection or rejection, and 4. Basis for the contract price. | 2 CFR 200.318 (i)  C4220.1F –  III, 3.d.(1) | * REQUIRED, no exceptions |
| **Contract and Agreement Requirements** | | |
| Time and Materials Contract Restrictions  The grantee determined that no other type of contract is suitable; and the contract specifies a ceiling price. | 2 CFR 200.318 (j)  C4220.1F –  VI, 2.c.(2)(c) | * USUALLY does not apply; however, if recipient chooses a Time and Materials Contract, then recipient is REQUIRED to follow restriction guidelines. |
| Required Clauses in Contracts  The grantee included only required clauses based on procurement type and cost. | 2 CFR 200 Appendix II  C4220.1F –  IV, 2  Appendix D | * REQUIRED, no exceptions. |
| State Required Clauses  Procurements made after 9/1/2017 must include affirmative statement that vendor is/will not boycotting Israel during term of contract. | 2 CFR 200.215  Texas State House Bill 89  Senate Bill 13  Senate Bill 19 | * REVIEW state regulations and determine if/when these apply. |
| Liquidated Damages Provisions  If the contract contains liquidated damages provisions, the assessment for damages is specified in the contract at a specific rate per day for each day of overrun in contract time. | C4220.1F –  IV, 2.b.(6)(b)1 | * DETERMINED by recipient and the contractor and is clearly outlined in the agreement. |
| Sound and Complete Agreement  It includes:   1. payment provisions 2. defined period of performance 3. dispute clauses 4. remedies for breach of contract 5. provisions covering termination for cause and convenience. | 2 CFR 200.318 (k)  C4220.1F –  III, 3.b  IV, 2.b.(6)(b)2  IV, 2.b.(6)(b)4 | * REQUIRED, no exceptions. * It could be an Agreement or Purchase Order. |
| Progress and Advance Payments  The contract contains progress payments based on costs incurred (as opposed to percent of completion, except that percent of completion may be used in construction contracts) and the contract contains a provision giving the grantee title to property (materials, work in progress, and finished goods) for which progress payments are made. The contract may contain other security in lieu of obtaining title.  The contractor did not receive an advance payment utilizing FTA fundsand the contract does not contain advance payment provisions or, if it did, prior written concurrence was obtained from FTA. | 2 CFR 200.305 b.3  b.4  C4220.1F-  IV, 2.b.(5)(b)  IV, 2.b.(5)(c) | * Progress Payments are REQUIRED. * Advance Payments are not recommended; they are infrequent and require PRE-APPROVAL |
| DBE Good Faith Efforts  If recipient does not meet the established DBE goal, recipient must demonstrate having, in good faith, attempted to | C4220.1F –  VI, 3.i.(1)(b)  VII, 2  VI, 6.a | * REQUIRED, no exceptions. |