|  |  |  |  |
| --- | --- | --- | --- |
| **Guide for Review of HOPWA Procurement** | | | |
| **Name of Grantee:** | | | |
| **Staff Consulted:** | | | |
| **Program Year Under Review:** | | | |
| **Name(s) of Reviewer(s)** |  | **Date** |  |

**NOTE:** All questions that address requirements contain the citation for the source of the requirement (statute, regulation, NOFA, or grant agreement). If the requirement is not met, HUD must make a finding of noncompliance. All other questions (questions that do not contain the citation for the requirement) do not address requirements, but are included to assist the reviewer in understanding the participant's program more fully and/or to identify issues that, if not properly addressed, could result in deficient performance. Negative conclusions to these questions may result in a "concern" being raised, but not a **"finding.**"

**Instructions:** This Exhibit is designed to assess state and unit of local government grantees’ compliance with applicable procurement requirements under 24 CFR 85.36 when 2 CFR part 200 does not apply, as explained below. Applicable procurement requirements under 24 CFR 84.40-48 for nonprofit organizations are not included in this chapter currently, but will be added at a later date. The Exhibit is divided into seven sections: Selected Sample; Small Purchases; Competitive Sealed Bids; Competitive Proposals; Noncompetitive Proposals; General Provisions/Procedures; and Bonding and Insurance. If the grantee’s accounting system includes information on contracts, purchase orders, etc., related to the HOPWA program, such a system can be a convenient starting point for selecting procurement transactions to review, following the sampling guidance in Section 10-5 of the Chapter 10 introductory text.

Grantees may designate government housing agencies or nonprofit organizations to serve as project sponsors. These entities are *not required* to follow competitive procurement procedures but may do so optionally at the discretion of the HOPWA grantee (see definition of “project sponsor” at 24 CFR 574.3).

**NOTE:** This Exhibit is to be used only for HOPWA Activities and Costs subject to 24 CFR part 84 or 85. It should NOT be used for any grant that is only subject to 2 CFR part 200 requirements. Grants subject only to 2 CFR part 200 must be monitored only in accordance with Exhibit 34-3. The Uniform Requirements at 2 CFR part 200 are applicable to the following HOPWA grants:

* **HOPWA Formula Grants awarded in any year that are subject to HOPWA requirements “as may be amended” are subject to 2 CFR part 200 as of December 26, 2014.** Grantees are required to comply with 2 CFR part 200 as of December 26, 2014, but were required to comply with 24 CFR part 84 or 85 in carrying out activities and incurring costs under their formula award before this effective date. Therefore, formula grants awarded for FY 2014 or earlier are subject to 2 CFR part 200 only for the portion of the operating period on and after December 26, 2014.
* **HOPWA Competitive Grants awarded in FY14 and subsequent years are subject to 2 CFR part 200 as of December 26, 2014.** HOPWA competitive grants awarded in FY13 and prior are not subject to 2 CFR part 200. HOPWA competitive grants awarded in FY 2013 and earlier remain subject to 24 CFR part 84 or 85 in place at the time of the award in accordance with the terms and conditions of the award.

For additional information on the applicability of 2 CFR part 200 requirements for CPD programs, please reference Notice CPD-16-04, *Additional Transition and Implementation Guidance for Recipients of Community Planning and Development (CPD) Funds for 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, accessed at: <http://portal.hud.gov/hudportal/documents/huddoc?id=16-04cpdn.pdf>.

A. Selected sample

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| ask the grantee to provide the following information for the selected sample of procurement transactions: | | | | |
| **Contractor** | **Amount Budgeted** | **Amount Obligated** | **Amount Expended** | **Procurement Method\*** |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| 4. |  |  |  |  |
| 5. |  |  |  |  |
| 6. |  |  |  |  |
| 7. |  |  |  |  |
| 8. |  |  |  |  |
| 9. |  |  |  |  |
| 10. |  |  |  |  |

**\*** Use the following numbers for these methods of procurement [see 24 CFR 85.36(d)]:

(1) Small Purchase; (2) Sealed Bids; (3) Competitive Proposals; and (4) Noncompetitive Proposals.

B. SMALL PURCHASES

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Can the grantee document receipt of an adequate number of price or rate quotations from qualified sources for procurements of $150,000 or less?  [24 CFR 85.36(d)(1)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

|  |
| --- |
| b.Describe types of purchases and price or rate quotes received. |
| **Describe Basis for Conclusion:** |

C. COMPETITIVE SEALED BIDS (24 CFR 85.36(d)(2))

|  |
| --- |
| Summarize the grantee’s formal, competitive sealed bid process.  [24 CFR 85.36(d)(2)] |
| **Describe Basis for Conclusion:** |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the grantee receive at least two or more responsible bids for each procurement transaction? (If not, please indicate whether the finding appears to be isolated or systemic.)  [24 CFR 85.36(d)(2)(i)(B)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the procurement process lend itself to firm, fixed price contracts and can selection of successful bidders be made principally on the basis of price?  [24 CFR 85.36(d)(2) (i)(B)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Was the invitation for bids (IFB) publicly advertised and were bids solicited from an adequate number of known suppliers, providing them sufficient time before the date set for opening the bids?  [24 CFR 85.36(d)(2)(ii)(A)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the IFBs, including specifications and pertinent attachments, clearly define the items or services needed in order for bidders to properly respond?  [24 CFR 85.36(d)(2)(ii)(B)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Are bids opened publicly at the time and place stated in the IFBs?  [24 CFR 85.36(d)(2)(ii)(C)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

9.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Are contracts awarded to the lowest responsive and responsible bidders?  (If not, please provide an explanation below.)  [24 CFR 85.36(d)(2)(ii)(D)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

D. COMPETITIVE PROPOSALS [24 CFR 85.36(d)(3)]

10.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Is the competitive proposal procurement method used only when conditions are not appropriate for the use of formal advertising?  [24 CFR 85.36(d)(3)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

11.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do Requests for Proposals (RFPs) clearly and accurately state the technical requirements for the goods or services to be procured?  [24 CFR 85.36(d)(3)(i)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

12.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Are proposals solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement?  [24 CFR 85.36(d)(3)(ii)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

13.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the grantee publicize Request for Proposals (RFPs) and honor reasonable requests by parties to compete to the maximum extent practicable?  [24 CFR 85.36(d)(3)(i)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

14.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the RFPs identify all significant evaluation factors, including price or cost where required, and their relative importance?  [24 CFR 85.36(d)(3)(i)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

15.

|  |  |
| --- | --- |
| Does the grantee: | |
| a. conduct technical evaluations of submitted proposals?  [24 CFR 85.36(d)(3)(iii)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. determine responsible bidders from such evaluations?  [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. as necessary, conduct negotiations, written or oral, for final contract award?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. make awards to the most responsive and responsible bidders whose proposals will be most advantageous to the grantee after price and other factors are considered?  [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

16.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| If architectural/engineering professional services are needed by the grantee, are such proposals evaluated with respect to factors other than price and can the grantee document the basis for negotiations of fair and reasonable compensation?  [24 CFR 85.36(f)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For procurement of architectural and engineering professional services, does the grantee maintain a list of qualified bidders who can respond to its RFPs? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

E. NONCOMPETITIVE PROPOSALS [24 CFR 85.36(d)(4)]

18.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| If the grantee procured services noncompetitively, can it show that other methods of procurement (small purchases, sealed bids or competitive proposals) were infeasible because:   * the items were available from a single source; OR * a public exigency or emergency was of such urgency to not permit use of competitive solicitation, after solicitation of a number of sources; OR * competition is determined inadequate; OR * approval was granted by HUD?   [24 CFR 85.36(d)(4)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

F. GENERAL PROVISIONS/PROCEDURES

19.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Is the grantee ensuring that its awards are not made to any party that was excluded, disqualified, or otherwise ineligible (e.g., suspension, debarment or limited denial of participation) for Federal procurement and nonprocurement programs?  [2 CFR 2424; 2 CFR 180] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

20.

|  |  |
| --- | --- |
| For the sample of files reviewed, is there a rationale documenting: | |
| 1. the selection of the method of procurement?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. the selection of contract type?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. contractor selection or rejection?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. the basis for the cost or price of the contract?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Is contract pricing always based on a method other than the "cost-plus-a-percentage-of-cost" method?  [24 CFR 85.36(f)(4)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

22.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1. Are procurement procedures in place to ensure that purchase orders and contracts are signed by an authorized program official?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
| 1. Are procurement procedures in place to ensure that items delivered and paid for are consistent with the items contained in the corresponding purchase order and/or contract?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1. Are procurement procedures in place to ensure that timely payment of vendors occurs, once requested, when orders have been delivered, inspected, accepted, and payment to the vendor has been approved?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
| 1. Are procurement procedures in place to ensure that a cost or price analysis is performed in connection with every procurement action, including contract modifications?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
| 1. Are procurement procedures in place to ensure that profit is negotiated as a separate element of price where price competition is lacking or a cost analysis is performed?   [24 CFR 85.36] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

23.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Are the contract provisions listed in 24 CFR 85.36(i) appropriately included in the HOPWA-assisted contracts?  [24 CFR 85.36(i)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

24.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the grantee have a written code of conduct governing employees, officers or agents engaged in the award and administration of contracts supported by grant funds?  [24 CFR 85.36(b)(3)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

25.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Can the grantee document a system of contract administration for determining the adequacy of contractors' performance?  [24 CFR 85.36(b)(2)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

26.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Can the grantee show that its project sponsors or subrecipients are required to follow applicable procurement policies and procedures in the administration of their contracts and purchase orders?  [24 CFR 574.500] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

G. BONDING AND INSURANCE [24 CFR 85.36(h)]

27.

|  |  |
| --- | --- |
| If contracts have been awarded for construction or facility improvements under the grant program(s), does the grantee: | |
| 1. follow its own requirements relating to bid guarantees, performance bonds and payment bonds for construction contracts or subcontracts valued at or below $150,000?   [24 CFR 85.36(h)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. meet the minimum Federal requirements for bid guarantees, performance bonds and payment bonds for construction contracts or subcontracts valued above $150,000?   [24 CFR 85.36(h)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |