

Texas Community Development Block Grant Program



CDBG Over Coffee

Today's Topic:

Bid Tabulation



TEXAS DEPARTMENT OF AGRICULTURE
COMMISSIONER SID MILLER

Procurement and Contracting

Procurement processes are designed to ensure:

- Free and open competitive process
- Document the process
- Observe the rules
- Properly bond and procure
- Use local businesses, small, minority and/or women-owned

When a Grant Recipient elects to hire a contractor, whether to administer a program, complete a task or do construction, those contractors must be procured competitively. When developing the procurement process, it is important that it:

- Follows a free and open competitive process in securing the services.
- Properly document the purchasing activities and decisions.
- Observe the special rules for any kind of purchases (small purchases, competitive sealed bids, competitive proposals, and sole source procurements).
- Properly bond and insure work involving large construction contracts and/or subcontracts.
- Use local businesses and contract with small, minority and/or women-owned businesses to the maximum extent feasible.

Before Getting Ready To Bid



Environmental clearance must be completed before the Grant Recipient executes any construction or materials contract.

As a kind reminder, prior to **executing** a construction contract, please make sure the Environmental Review is completed and approved.

Sealed Bid Procurement Step 1

Prepare Bid Package

- The Grant Recipient must prepare a bid package detailing the specific goods or services to be provided by the contractor.
- Update MSR with bid information

Sealed bids are publicly solicited and a firm, fixed-price contract (lump sum or unit price) is awarded to the responsible respondent whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest and best in price.

The first step in the bidding process is to the Prepare Bid Package

The Bid Package must be prepared by the Grant Recipient and must detailed the specific goods –in this case the CDBG activities- or services to be provided by the contractor. Also, this package should provide sufficient technical information for potential bidders to submit a competitive bid.

Please note that:

- When preparing the packaged, we strongly recommended the use of additive alternatives, to give maximum flexibility to award a contract that fits within the available budget and provides the maximum benefit.
- Also, if by any change, a construction contract includes both a CDBG

project and a separate project not included in the Performance Statement or claimed as match,
the construction contract should clearly indicate the work and the costs associated with each project.

An important action to the bid process, is to create a Materials and Service Report (an MSR) to start entering the bid information in TDAGO and include the projects description and wage decision

Sealed Bid Procurement Step 2

Comply with David-Bacon Act requirements

- Obtain prevailing wages
- Labor Standards Officer obtains applicable Wage Decision from SAM.gov

Visit Chapter 7 Davis-Bacon Labor Standards in the 2023 TxCDBG Project Implementation Manual for specific information on the Davis-Bacon Act.

Step 2. Comply with Davis-Bacon Act Requirements

For bids that include construction work, the Grant Recipient must obtain prevailing wage rates for the local area as required by the Davis-Bacon and Related Acts and incorporate those wage rates into the procurement for construction,

For more information on the Davis-Bacon please visit Chapter 7 in the Implementation Manual

Once this information is obtained, continue to update the MSR regarding the DBRA statistics.

Sealed Bid Procurement Step 3

Advertise for bids

○ Requirements when advertising

- Publish once a week for two consecutive weeks
- First publication date is at least fifteen (15) days
- Ensure two published notices at least seven days apart
- Describe work
- Include time and place
- Include name and position of employee
- Indicate whether lump-sum or unit
- Indicate method of payment
- Indicate type(s) of bond(s) required
- Indicate whether contract will be awarded
- Identify TxCDBG grant agreement number

Step 3. Advertise for Bids

The invitation for bids must be publicly advertised and bids solicited from an adequate number of suppliers. The publication should be published at least once in a newspaper of general circulation, providing sufficient time prior to bid opening. If the publication period is not of sufficient time to attract adequate competition, the bid may have to be re-advertised.

When advertising:

- Publish once a week for two consecutive weeks prior to bid opening;
- For counties, ensure that the first publication date is at least fourteen days prior to the bid opening date;
- For municipalities, ensure that the first publication date is at least fifteen days prior to the bid opening date;
- Ensure that the two published notices are at least seven days apart;
- Describe work or item to be purchased or cite where specifications can be obtained;
- Include time and place for receiving and opening;
- Include name and position of local official or employee to whom bids are sent;

- Indicate whether bidder should use lump-sum or unit pricing;
 - Indicate method of payment by Grant Recipient;
 - Indicate type(s) of bond(s) required by the bidder;
 - Indicate whether contract will be awarded within 30 or 60 days; and
 - Identify TxCDBG contract number
- If there is no newspaper of general circulation in the city or the county, the notice must be posted at the city hall or in a prominent place in the courthouse for 14 days before the date of the bid opening. The postings must be documented by affidavit and photo evidence in accordance with public notice policy in *Chapter 1 Administration and Reporting*. If postings are used, the Grant Recipient is encouraged to use web resources such as the Dodge Report and Civcast to further publicize bidding opportunities to qualified contractors.

Please NOTE that any change to the original bid opening date will require re-publication of the invitation for bids at least once in a locally published newspaper.

The re-published notice will include the place, time and date for the new bid opening and must be published at least seven days prior to the new bid opening date.

If the revised bid opening date is more than fourteen days after the originally published date, all required publications must be repeated.

If an addendum to the bid package is necessary:

- it must be distributed to each potential bidder
- The distribution of an addendum shall be verified either by statements of receipt or registered/certified mail receipts
- The addendum shall allow adequate time for consideration in bid preparation, usually at least one week. If adequate time is not available, the bid opening date must be extended and the Grant Recipient must republish the invitation for bids containing the place, time, and date for the new bid opening.

Sealed Bid Procurement Step 4

Promote Participation of Minority-Owned Businesses and Section 3 Business Concerns

- The Grant Recipient must facilitate contracting opportunities for Section 3 businesses, as well as minority-owned businesses and women-owned businesses

<https://www.twc.texas.gov/directory-workforce-solutions-offices-services>

Step 4. Promote Participation of Minority-Owned Businesses and Section 3 Business Concerns

It is a federal and state requirement that the Grant Recipient should actively take steps to encourage proposals from Small, Minority, and Women owned business enterprises..., as well as Section 3 business concerns.

Examples of acceptable organizations include:

- Public/non-profit organizations;
- Private plan rooms; or
- Local Workforce Solutions Offices (WIOA One Stop Shop), if applicable, see <https://www.twc.texas.gov/directory-workforce-solutions-offices-services>.

Sealed Bid Procurement Step 5

Hold Bid opening

- Multiple requirements must be met for the bid opening



Step 5. Hold the Bid Opening

When the Grant Recipient is ready for the bid opening it is important to:

- Note the date and time of receipt of each bid on the bid envelope, which must be kept with the original bid even following the bid opening.
- Open and read aloud each bid.
- Record the base bid, along with any alternates, on a bid spreadsheet.
- Announce the apparent low bidder and all bidders with complete packets.

- What about **Electronic Bids**? – The Texas Local Government Code permits counties and municipalities to accept bids through electronic transmission if the local governing body has adopted written rules and procedures to ensure the identification, security, and confidentiality of electronic bids.¹²

Keep in mind:

- the electronic bids remain effectively unopened until the proper time to unseal bids
- must maintain in its project procurement records copies of the written

rules/procedures and local governing body minutes verifying adoption of the rules/procedures

- documentation of any application software used to accept and administer the electronic bids
- other documentation deemed necessary to verify compliance with statutory or programmatic requirements.

Sealed Bid Procurement Step 6

Evaluate and Select the Low Bidder

- Carefully review the bids submitted
- Allow time to research
- Do not correct errors in bid price
- Re-bid when bids exceed the budget
- No **NEGOTIATION**



Step 6. Evaluate and Select the Low Bidder

The Grant Recipient or its designee, usually the project engineer, should carefully review the bids submitted and the low bidder's statement of qualifications and references.

Awarding the contract on the same date as the bid opening does not generally allow sufficient time to research and review the documents and ensure that the low bidder has provided all the required forms, bonds, certifications, as well as qualifications and references.

A bid that has been opened may not be changed for the purpose of correcting an error in the bid price.

- Municipalities and Counties **are required** by state law to award the contract to the lowest responsible bidder.

If the bids received exceed the designated budget

Then...the Grant Recipient can:

- Reject all bids and re-bid the project.
- Accept the deductive alternates in the bid packet, if applicable.
- Accept the low bid and provide additional local funds.
- Delete bid items or quantities before contract award if all bidders agree in writing to changes.

If all bids reved exceed the amount of the construction budget, **THE GRANT RECIPIENT MAY NOT NEGOTIATE THE CONTRACT PRICE SOLELY WITH THE LOW BIDDER.** To allow one bidder to negotiate the contract price is not fair to the other contractors who submit bids. **NEGOTIATION OF THE CONTRACT PRICE SOLELY WITH THE LOW BIDDER WILL RESULT IN THE DISALLOWANCE OF TxCDBG FUNDS FOR CONSTRUCTION COSTS.**

If bids exceed the construction budget and you have re-bid the project - consult with your Grant Specialist for guidance on next steps.

The use of Small Purchase procurement should not be used in place of sealed big procurement.

Sealed Bid Procurement

Third Party Cooperative Purchase

- Grant Recipient may choose to purchase certain goods and services through an interlocal agreement with an authorized purchasing cooperative
 - Example: Texas Association of School Boards, Houston-Galveston Area Council (HGACBuy)

A Grant Recipient may choose to purchase certain goods and services through an interlocal agreement with an authorized purchasing cooperative.

All state and federal competitive procurement requirements apply to purchases through these entities; however, many steps may be conducted by the third party rather than the Grant Recipient.

There are Third Party Cooperative Purchases...

For example – Tx association of School Boards and Buy Board of the Houston-Galveston Area Council (HGACBuy).

Please keep in mind procurement requirements still apply.

The Grant Recipient must retain copies of the cooperative's competitive procurement procedures.

At a minimum, such records should include:

- Interlocal agreement between the cooperative and local government.
- Invitation for bids advertisements.
- Documentation of affirmative steps to include small, minority- and women-owned

business enterprises in accordance with 2 CFR §200.321.

- Bid tabulation of bids received and opened.
- Updating the MSR with third-party cooperative purchases.

Essence of Good Procurement

Summarized as follows:

- Identify and clearly specify standards
- Seek competitive offers
- Use a clear written agreement
- Keep good records; and
- Have a quality assurance system

The “essence of good procurement” can be summarized as follows:

- Identify and clearly specify standards for the goods or services the grantee or subrecipient wants to obtain;
- Seek competitive offers to obtain the best possible quality at the best possible price;
- Use a written agreement that clearly states the responsibilities of each party;
- Keep good records; and
- Have a quality assurance system that helps the grantee or subrecipient get what it pays for.

Thank You For Your Attention



Time for Questions