



WEATHERIZATION ASSISTANCE PROGRAM

PROCUREMENT

PARTICIPANT'S MANUAL ONE DAY WORKSHOP

Procurement for Department of Energy Weatherization Assistance Grantees

Learning Objectives

1. To provide participants with a working knowledge of the procurement regulations contained in 2 CFR Part 200
2. To provide participants with an understanding of procurement procedures and the need for the development, implementation, and management of procurement procedures.
3. To provide participants with the foundational knowledge to integrate the regulation requirements into procurements for the organization.

Key Terminology

Advertisement	Non Competitive Proposals
Bid Package	Open and Free Competition
Code of Conduct	Non Competitive Proposal
Competitive Proposal	Procurement Procedures
Contractor's Conference	Proposed Cost Data
Labor Surplus Areas	Sealed Bid
Methods of Procurement	Small Purchases
Micro Purchase Procedures	Women Business Enterprises

Supplemental Materials

Handouts & Resources

Procurement Participant Manual

2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Department of Energy, Weatherization Assistance Program Procurement Tool Kit Revised

Sample Procurement Procedures

Agency Procurement Self Assessment Tool

Agency Procurement Development Tool

PROCUREMENT

A. Introduction

Procurement is the acquisition of goods and/or services. Proper procurement will result in the goods/services are appropriate and that they are procured at the best possible cost to meet the needs of the agency in terms of quality and quantity, time, and location.

The process of obtaining goods and services from preparation and processing of a requisition through to receipt and approval of the invoice for payment. It commonly involves the following:

- Purchase planning,
- Standards determination,
- Specifications development,
- Supplier research,
- Value analysis,
- Open and free competition among suppliers or price negotiation,
- Making the purchase,
- Supply contract administration.

Procurement affects the strategic capabilities of an organization in many ways. The traditional role of procurement management is to ensure that there is a supply of services and materials to support an agency's operations and save money. Some agencies have analyzed and revised their procurement process to maximize services to the community, reduce cost of services to the funder, and reduce the administrative time spent on procurement. The result is an average savings of 12 percent.

The purpose of the Federal procurement regulations is to ensure that government funds are used by governments and organizations efficiently and effectively to provide the services and/or goods authorized by the Federal agency that awarded the funds. They also ensure that the governments and organizations procurement systems provide for open and free competition among potential suppliers.

The management of a Department of Energy, Weatherization Assistance Program grant or subgrant requires a working knowledge of the procurement regulations of the Department of Energy. Department of Energy procurement regulations are contained in Title 2 of the Code of Federal Regulations (CFR) Part 200.

Following is a summary of the procurement regulations. Specific questions should be researched in the complete 2 CFR Part 200.

B. Procurement Regulations

The procurement regulations are found in 2 CFR Part 200.317 through 200.326. It is important to note that contracts require specific clauses which are contained in Appendix II of 2 CFR Part 200.

“Procurement by States: When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds.”

Other grantees and subgrantees must meet the following standards:

- The non-Federal entity (NFE) must use its own **documented** procurement procedures which reflect applicable, State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards of this part.
- A NFE must maintain oversight to ensure the contractor performs in accordance with terms, conditions, and specifications of their contracts or purchase orders.
- There must be written standards of conduct governing the grantee or subgrantee's employees.
- Procedures that include:
 - Methods to avoid the purchase of unnecessary or duplicative items,
 - Analysis of lease and purchase alternatives, and
 - Preference for products and services that conserve natural resources and protect the environment
- Grantees are encouraged to enter into State and local inter-governmental agreements for purchasing common goods and services.
- Grantees are encouraged to use Federal excess and surplus property.
- Procedures to ensure awards are only given to responsible contractors.
- Records that detail the significant history of procurement.
- Grantees must settle all contractual and administrative issues arising out of procurement.

All procurement transactions must be conducted in a manner providing full and open competition. Examples of restrictive conditions include:

- Placing unreasonable requirements on firms to qualify;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;

- Specifying only a “brand name” product instead of allowing “an equal”; and
- Any arbitrary action in the procurement process.

The NFE must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals unless allowed by Federal statutes.

There must be written procurement procedures and a written method for conducting technical evaluations. The solicitation must also include a clear and accurate description of the service or material being procured. Approved methods of procurement are:

- Micro-purchases
- Small purchase procedures.
- Sealed bids (formal advertising).
- Competitive proposals.
- Non-competitive proposals

Grantees are encouraged to give preference to minority firms, women business enterprises, and labor surplus area firms. There must be a cost or price analysis in connection with every procurement action. Grantees must make proposed procurement technical specifications available upon request by the funding source. The bonding requirements of a grantee will be accepted if the funding source interest is adequately protected.

The grantee or subgrantee’s contract must contain the following provisions, the specific contract clauses can be found in Appendix II of 2 CFR Part 200:

- Administrative, contractual, or legal remedies
- Termination for cause and for convenience for all contracts over \$10,000
- Compliance with Executive Order 11246 entitled “Equal Employment Opportunity”
- Compliance with the Copeland “Anti-Kickback” Act
- Compliance with the Davis-Bacon Act, if applicable
- Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act, if applicable
- Notice of awarding agency requirements and regulations pertaining to reporting
- Rights to inventions made under a contract or agreement
- Awarding agency requirements pertaining to copyrights and rights in data

- Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General to any books, documents, papers, and records of the contractor
- Retention of all required records for three years after grantees or subgrantees make final payments
- Compliance with Clean Water Act
- Debarment and Suspension
- Byrd Anti-Lobbying Amendment
- Procurement of recovered materials

“Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.”

C. Components of a Procurement System

There are basically twelve components of all procurement systems.

1. **Determine what you will be purchasing.** It is important to plan all purchasing and secure the appropriate approval to initiate the procurement process.
2. **Establish the timeframe for the purchase.** Establishing the timeframe is also part of the planning process. One of the goals of procurement is to get the product or services at the time that it is needed.
3. **Identify the lead individual to handle the purchase.** There will be a number of individuals involved in all large purchases. One person has to manage the individuals to ensure that each step of the procurement is completed in a timely manner and that all the pieces are working together on a purchase.
4. **Prepare the general instructions.** Many agencies have a template for all solicitation general instructions where just dates and times need to be inserted.
5. **Prepare the specifications and price quote sheets.** The development of the specifications and the minimum requirements to submit a bid/proposal is probably the most critical element of the procurement. To ensure that you only have responsible contractors/vendors submitting bids/proposals the minimum requirements must be clear yet no so restrictive as to restrict competition. Equally critical is the development of the specifications for products and/or services to ensure you get what you want.

6. **Advertise the solicitation.** The regulations require that all purchases must be done in a manner to provide for open and free competition. The procedure for advertising all solicitations must be designed and managed to ensure that there is open and free competition in all procurement activities.
7. **Conduct bidder's conference.** If appropriate may conduct a bidder's conference to answer all questions from potential contractors/vendors. It is also a time when information can be provided to everyone at once.
8. **Receive bids/proposals/quotations.** The confidentiality of bids/proposals must be maintained at all times and how the bids/proposals are received must respect this requirement.
9. **Evaluate the bids/proposals/quotations.** Typically this is the one activity that is challenged if there is a potential vendor/contractor that feels they have not been treated fairly. Having a standardized procedure for conducting the evaluation will provide integrity to the entire procurement system.
10. **Select the contractor(s)/vendor(s).** After completing the evaluation select the vendor or contractor to provide the service and/or product.
11. **Establish the solicitation file.** Government regulations require that the history of a solicitation be documented. It is important that specific information be maintained on all solicitations.
12. **Enter into agreements with contractor(s)/vendor(s).** The agreement or contract will establish what is expected from the contractor/vendor.

D. Procurement Procedures

Procedures are documents that form part of an organization's system of administrative communications. They instruct people on what to do and how to do it. There are three types: written, prescribed, and standing instructions.

- **Written** means that the know-how contained in procedures is not only in the heads of some knowledgeable people, but is made accessible to all who may have a need to know it or to check their memories; to be sure they know what the agency expects of them.
- **Prescribed** means that what is written is the way the program has decided the work is to be done, how requests are to be presented, how decisions are to be made. Prescription implies official approval and sanction, based on deliberate review and choice.

- **Standing** means that the instruction is to be observed indefinitely into the future-or until the procedure is changed or withdrawn. Whenever the document may be looked at, it is meant to be followed.

Procedure documents can be thought of as being both frontline and end-of-the-line communications. They are frontline when they are used at the point at which service is given, materials are purchased, and reports are compiled; they govern the doing of work. They are end-of-the-line when they include the products of a great deal of planning and decision making. They convert funding source regulations and organization's policies into concrete instructions.

Regulations always express *what* is to be done; they may also state the how to do it in a general way, including conditions that must be met.

Procedures express concretely *how* actions are to be carried out, by whom, and in what sequence, so as to make policy operational.

Because procedures make regulations operational, it is impossible to separate policy and procedural information into two distinct lots. Not only do regulations and procedural instructions contain overlapping information, but the information we find in procedures must be consistent with the regulations they make concrete.

- A procedure may deal with only one part of a regulation.
- Sometimes our procedures include policies that have not been carefully analyzed or explicitly described. We need to be aware of these unofficial and informal policies so that our procedures are soundly based.

In most positive terms, usable procedures can improve the agency's efficiency and effectiveness. This happens because they help to assure that:

- workers know what is expected of them;
- workers know what to expect of others, in performing the work;
- units and workers can, therefore, interact properly, reducing the time supervisors must spend on directly coordinating the work;
- policies can be complied with, once they are translated into concrete instructions;
- agency practices are uniform and fair, less dependent on individual whim and prejudice;
- operating errors are reduced, insofar as they stem from staff uncertainties;
- reliance on oral instructions is minimized, as is the time required to give them and the ambiguities they may convey;
- standards for evaluation of work performance-by individuals and sections are available;

- know how does not leave with knowledgeable personnel;
- training of new employees can be more efficient, as oral instruction can be supplemented or replaced by study of written instructions; and
- disputes can be settled by reference to documents, reducing demands for arbitration by higher-level managers

These are benefits of regulations/procedure documents as products. In addition, there can be substantial benefits from a well-managed process of producing them. Such a process of preparation, review, and clearance can help to assure that:

- work methods are analyzed periodically for possible improvements and updates;
- changes in methods are well-considered; and
- staff becomes involved by contributing their know-how to procedures development and management improvement; they have a chance to display their potential for advancement to higher positions.

If policy/procedure documents are to be effective guides to performing the right work correctly, they must meet certain criteria. Good procedures are:

- understandable to all those who are to use them, written in the simplest possible language;
- unambiguous in their content, in stating who does what, when;
- unequivocal in stating actions and choices;
- uncluttered with excess verbiage and subject matter that does not directly instruct people in what to do;
- detailed just enough to ensure proper work performance;
- logically structured, presenting a straightforward sequence of actions and necessary cross-reference and connections;
- consistent with workers' responsibilities and capabilities;
- consistent with policies, objectives, and capabilities;
- consistent with one another.

One method for writing procedures is detailed below:

- Staff is listed in the left column; actions are listed in the right.
- A single numerical sequence is used from the start to the end of a procedure. The numbers appear before the action statements (right column).
- The wording is kept terse and direct and the content is limited to the least information needed to instruct the staff.

Additional needed information is provided outside of the procedure itself. The *policy statements* may form a discrete section preceding the procedure. Technical and administrative details may form a discrete section that follows the procedure (or may be handled by reference to other documents).

- If one staff person performs a series of steps, it is not necessary to identify the staff at each step in the left column.
- Each step successively performed by the same staff member may be stated in a separate numbered statement, or several steps may be grouped in a single statement with each action set off by semicolons.
- When alternative actions need to be taken, one first determines which the main action is and which the alternative action is. Determination of the mainline action may be on the basis of:
 - what is the most frequent situation
 - what applies to the cases of primary concerns

Mainline actions are presented in numbered statements in the procedure, while alternative actions are presented in sub statements, indented under the numbered step to which they apply.

In developing procedures there are four components which should be incorporated into each procedure.

- **Purpose.** The purpose explains why the procedures have been developed and when they will be used. The purpose gives a description to staff and to the public as to why a specific activity is being performed in a specific manner (may be part of the regulations statement).
- **Specific Procedure.** This identifies the duties of each individual in relation to the procedures. The written statement should be very specific and logical.
- **Additional Information.** Other information that impacts what and how the procedure is performed that does not fit appropriately into the specific procedure.
- **Mandated Forms.** This includes required forms used to accomplish the work described in the particular procedure. The use of standardized forms allows for the documentation of activities in a consistent manner. In addition, standard forms will eliminate duplicate work and "reinventing the wheel" each time a particular activity is to be performed.

The following are partial elements of procurement procedures.

A. DETERMINATION OF PROCUREMENT METHOD

Purpose: The purpose is to establish the appropriate procurement method to be used for the goods or services to be purchased. The methods allowable comply with agency, state and federal regulation requirements.

PROCEDURES

1. Program Director

- a. Establish cost estimate for the purchase in the aggregate and submit to Contract Officer.

2. Finance Officer

- a. Select the appropriate method for the procurement.
- b. \$3,000 in the aggregate and lower will follow micro-purchase procedures.
- c. \$3,000 to \$150,000 will follow small purchase procedures.
- d. Over \$150,000 will follow large purchase procedures.
- e. Submit description, cost estimate, and recommended method of procurement to administration for approval.

3. Administration

- a. Reviews recommendation and approves or disapproves.
- b. Authorizes purchases over \$3,000 and Program Director will authorize purchases under \$3,000.

ADDITIONAL INFORMATION

1. In the aggregate is the total amount through single or multiple purchases of the item(s) for the program period, i.e. training books - 12 purchases per year @ \$500 per purchase is an aggregate amount of \$6,000.
2. The Finance Officer will serve as Contracts Officer.
3. Allowable methods of large procurement.
 - a. Sealed Bids
 - Advertisement of IFB
 - Conditions
 - See regulations for etc.
 - Award must be made to lowest bidder
 - b. Competitive Proposals
 - Advertisement of RFP
 - Conditions
 - Award of Contract based on multiple criteria.
4. Noncompetitive proposals are those where only one bid is received or only one source is solicited.
5. Noncompetitive proposals may be used only when it is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following applies:
 - a. Only available from a single source.
 - b. Emergency exists.
 - c. Awarding agency authorizes noncompetitive proposal.

PARTICIPANT ACTIVITY ONE

Methods of Procurement

Assuming that each of the categories below falls into large purchase procedures, select what method of procurement you would use for each of the following measures:

Measures	Sealed Bid	Competitive Proposal	Non Competitive Proposal
Insulation			
Windows & Doors			
Solar Screens			
HVAC Repairs & Replacements			
Refrigerators			
Water Heaters			
Weatherization Materials			
Whole House Weatherization			

B. SMALL PURCHASES

Most agencies already have small purchase procedures. The only regulation that would impact agency small purchase procedures is the maximum dollar threshold which is currently \$150,000.

C. BID/PROPOSAL PACKAGE

PURPOSE:

1. Prepare the scope of work statement and/or specifications of materials/services to be solicited.
2. Establish the solicitation timeframe which includes:
 - a. Date and time period for advertisement.
 - b. Closing date for receipt of bids/proposals.
 - c. Opening date of bids/proposals.
3. Establish minimum requirements.
4. Establish evaluation criteria, if applicable.
5. Prepare the bid package which includes:
 - a. Cover sheet (closing and opening date)
 - b. Statement of work specifications or materials to be purchased.
 - c. Minimum requirements
 - d. Evaluation criteria
 - e. Work quality standards
 - f. Proposal format
 - g. Sample contract
 - h. Date of bidder's conference
 - i. Right of the agency to accept or reject all bids
 - j. Period of contract

PARTICIPANT ACTIVITY TWO Bid Package

List the contents of the bid package for your agency:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____

D. Advertising

PURPOSE: To establish a standard method of advertising procurement activities to assure maximum open and free competition.

1. Prepare the advertisement for newspaper.
2. Prepare notice to be posted.
3. Submit to Contracts.
4. Submit advertisement to newspaper and post advertisement.
5. Secure documentation of advertisement, i.e. newspaper – tear sheet, posting signed statement from the office where it was posted.
6. Notify all individuals on the bidders list of solicitation, if applicable.
7. Record the name of the individuals or firms requesting bid packages, the date the request was received, and the date the bid package was sent.
8. Prepare technical information for bidder's conference.
9. Facilitate bidder's conference.
10. Provide sign-in sheet for bidder's conference and ensure all individuals sign.
11. Record minutes of bidder's conference.

PARTICIPANT ACTIVITY THREE Advertisement

List how you will advertise the solicitation:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____

E. Receipt of Bid/Proposals

PURPOSE: To establish procedures that will be followed to assure equal treatment to all prospective bidders.

1. Log all sealed bids/proposal into the bid/proposal control sheet.
2. Stamp each bid with the date and time received and initial the date and time stamp.
3. Store bids/proposals in a locked location unopened until the time of opening.
4. Return all bids/proposals received/submitted after the closing date unopened to bidder including a letter of explanation as to the reason it was returned.

F. Evaluation

PURPOSE: To evaluate the bids/proposals submitted, select the contractor and award the contract.

1. Conduct bid opening (public or private).
2. For public bid openings (IFB's) the bid amounts will be announced at the opening.
3. Schedule meeting of evaluation panel.
4. Evaluate bids/proposals for compliance with all requirements.
5. Evaluate the responsive bids/proposals based on cost of criteria established in the bid package.
6. Prepare summary of points/costs for all of the responsive bidders.
7. Submit the name, the bid amount and justification for selection of the individual/firm selected for contract award to administration for approval.
8. Send the notice to contract to select contractor and secure the following information.
 - a. Certification of insurance, if applicable.
 - b. Review and approve suppliers list, if applicable.
 - c. Secure a copy of all required licenses, if applicable.
 - d. Certification regarding suspension and debarment from suppliers and subcontractors.
9. Verify that the insurance meets requirements, if applicable.
10. Secure fully executed contract.
11. Provide written notification to unsuccessful bidders.
12. Schedule debriefing conference for bidders based on individuals requests

PARTICIPANT ACTIVITY FOUR Insulation Evaluation Quotation

Page 1

Offeror A has 10 years experience, two references were excellent and one reference was good, and is not minority, women owned or reside in a labor surplus area.

Offeror B has 15 years experience, two references were excellent and one reference was good, and is not minority, women owned or reside in a labor surplus area.

Offeror C has 12 years experience, two references were excellent and one reference was good, and is not minority, women owned or reside in a labor surplus area.

Offeror D has 2 years experience, three references were excellent, and is not minority; women owned or reside in a labor surplus area.

Offeror E has 5 years experience, three references were excellent, and a women owned business.

Determine who will win the solicitation. Multiple contractors will be selected so also determine the order of the priority.

Evaluation Criteria:

1. Cost – 60 points
2. Background and Experience – 30 points
3. References – 7 points
4. Preference – 3 points

PARTICIPANT ACTIVITY FOUR Insulation Evaluation Quotation

Page 2

		Offeror	Offeror	Offeror	Offeror	Offeror
Sample House Measures	Quantity	A	B	C	D	E
Attic Insulation – Blown Cellulose, bring to R-50	1,500.00	879.50	870.99	856.00	885.95	851.55
Wall Insulation – Blown Cellulose, bring to R-13	1,200.00	910.00	879.50	888.00	915.55	890.75
Floor Insulation – Batt Fiberglass, bring to R-30	1,500.00	1,435.75	1,465.99	1,453.00	1,490.90	1,461.35
Total Insulation Cost		\$3,225.25	\$3,216.48	\$3,197.00	\$3,292.40	\$3,203.65

Price includes all materials, labor, permits fees, sales taxes and LSW practices with wall insulation

PARTICIPANT ACTIVITY FOUR Insulation Evaluation Quotation

Page 3

Based on the information for each offeror assign points and select the winning contractor.

	Offeror	Offeror	Offeror	Offeror	Offeror
	A	B	C	D	E
Cost					
Experience					
Reference					
Preference					
Total Points					

List the selected contractors in order of priority:

1. Offeror _____
2. Offeror _____
3. Offeror _____
4. Offeror _____
5. Offeror _____

G. PROTESTS

PURPOSE: To provide specific actions which will be taken should a protest be filed by an unsuccessful bidder.

1. Notify contractor that a complaint of protest has been filed.
2. Schedule the meeting of protest committee to review complaint.
3. Conduct meeting to evaluate protest within ten (10) working days of the filing of the receipt of protest.
4. Record minutes of evaluation of protest committee meeting.
5. Issue a decision to agency administration within five (5) working days of the meeting of the protest committee.
6. Notify protester of the decision of the protest committee.

H. Documentation

PURPOSE: To detail the required information that must be maintained in the bid process, contract, and protest (if applicable) to ensure proper documentation.

1. Establish and maintain the bid file(s) which includes:
 - a. Cost estimated and approval to proceed with the procurement.
 - b. Documentation of advertisement.
 - c. Bid/proposal package.
 - d. List of individuals attending the bidders conference (sign-in sheet).
 - e. Minutes of the bidders conference.
 - f. List of evaluation panel members.
 - g. Bids received.
 - h. Summary sheet and work papers.
 - i. Rejection letters.
2. Establish and maintain contractor files which include the following information:
 - a. Bid/Proposal
 - b. Notice to Contract
 - c. Certificate of Insurance
 - d. Licenses, if applicable
 - e. Payment Requests
 - f. Performance Evaluations
 - g. Change Order, if applicable
 - h. Contract
 - i. Certifications
 - Suspension and Debarment
 - Lobbying
 - Drug Free Workplace

3. Protest File

1. List of protest committee members.
2. Copy of the protest committee correspondence, meeting minutes, and work papers.

The government law authorizes the program which is to be funded by the federal government, the government regulations state how the law is to be implemented, and the procedures state how an Agency is going to operate the program in compliance with the Federal requirements.

Sound financial management incorporates the Federal regulations into a workable system that allows the Agency to manage the federal funds while meeting the needs of the program in an efficient and effective manner.