



Procurement Guidance - Federal Requirements (2 CFR 200)

OTHER NON-FEDERAL ENTITIES (EXCLUDES STATE AGENCIES)

Section 1 - General Provisions/Procedures		Yes	No	N/A	Notes
1(i)	Does the non-Federal entity have its own documented procurement procedures, which reflect State, local, and tribal laws and regulations (as applicable), and conform to the requirements of 2 CFR part 200? [2 CFR 200.318(a)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(ii)	Can the non-Federal entity demonstrate that it maintains oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders? Generally there would be a violation of this requirement as a result of noncompliance with other requirements. The non-Federal entity should have procedures in place to review invoices, track progress with contract deliverables in relation to contract timelines, etc. in order to show oversight of the work performed. [2 CFR 200.318(b)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(iii)	Does the non-Federal entity have written standards of conduct covering conflicts of interest and governing the actions of its employees, officers, or agents engaged in the selection, award and administration of contracts supported by grant funds? [2 CFR 200.318(c)(1)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(iv)	If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, does the non-Federal entity maintain written standards of conduct covering organizational conflicts of interest? [2 CFR 200.318(c)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(v)	Do the records for each sample transaction show that the non-Federal entity took adequate steps to ensure the award was made to a contractor that was responsible and able to perform successfully under the terms and conditions of the procurement, including considering such matters as the contractor's integrity, compliance with public policy, record of past performance, and financial and technical resources? [2 CFR 200.318(h)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(vi)	If the non-Federal entity uses prequalified lists, are such lists current, do they include an adequate number of qualified sources to ensure maximum open and free competition, AND are the lists used in a way that allows non-listed bidders to compete during the solicitation period? [2 CFR 200.319(e)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

1(vii)	<p>For the procurement transactions selected for review, is there documentation sufficient to detail the procurement history, including, but not limited to:</p> <p>[2 CFR 200.318(i)]</p>				
1(vii)(a)	a. The rationale for the method of procurement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(vii)(b)	b. The selection of contract type?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(vii)(c)	c. Contractor selection or rejection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(vii)(d)	d. The basis for the cost or price of the contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(viii)	<p>Were there any protests, disputes, claims, etc. related to the procurement that have not been settled?</p> <p>[2 CFR 200.318(k)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(ix)	<p>"Does the non-Federal entity conduct procurement transactions in a manner providing full and open competition?"</p> <p>NOTE: In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include, but are not limited to:</p> <p>(1) Placing unreasonable requirements on firms in order for them to qualify to do business;</p> <p>(2) Requiring unnecessary experience and excessive bonding;</p> <p>(3) Noncompetitive pricing practices between firms or between affiliated companies;</p> <p>(4) Noncompetitive contracts to consultants that are on retainer contracts;</p> <p>(5) Organizational conflicts of interest;</p> <p>(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and</p> <p>(7) Any arbitrary action in the procurement process.</p> <p>[2 CFR 200.319(a) & (b)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(x)	<p>If a statutorily or administratively imposed state, local or tribal geographical preference was used in the selection process, did one of the following apply</p> <ul style="list-style-type: none"> • State licensing law made the preference necessary; • An applicable Federal statute expressly required or encouraged the geographic preference; or • The procurement was for architectural and engineering professional services and the application of geographic location as a selection factor left an appropriate number of qualified firms (given the nature and size of the project) to compete for the contract. <p>[2 CFR 200.319(c)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

1(xi)	Does the non-Federal entity have written procedures for procurement transactions which include requiring the following in all solicitations:				
1(xi)(a)	a. Clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. [2 CFR 200.319(d)(1)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(xi)(b)	b. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. [2 CFR 200.319(d)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
1(xi)(c)	c. Were the requirements in a. and b. above included in the solicitations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Section 2 - Procurement Methods (NOT applicable to ARPA projects under Revenue Loss - Expenditure Category 6.		Yes	No	N/A	Notes
2(i)	Micro-Purchases - Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. Micro-purchases may be awarded without soliciting quotations if the non-Federal entity considers the price to be reasonable.				
2(i)(a)	For transactions that followed the micro-purchase procurement method, is the micro-purchase within the applicable threshold established at 48 CFR Subpart 2.1? [2 CFR 200.1 and 2 CFR 200.320(a)(1)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(ii)	Small Purchases - Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.				
2(ii)(a)	For transactions that followed the small purchase procurement method, can the non-Federal entity document that it obtained price or rate quotations from an adequate number of qualified sources and the purchase did not exceed the Simplified Acquisition Threshold? (Describe types of purchases and price or rate quotes received.)(Note: As a general rule of thumb, at least three are needed to be considered adequate though not specifically listed in the requirements.) [2 CFR 200.320(a)(2)]	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

2(iii)	<p>Sealed Bids - Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all of the material terms and conditions of the invitation for bids, is the lowest in price.</p>				
2(iii)(a)	<p>Were bids solicited from an adequate number of known suppliers, providing them sufficient response time before the date set for opening the bids and, was the Invitation for Bids (IFB) publicly advertised?</p> <p>[2 CFR 200.320(b)(1)(ii)(A)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iii)(b)	<p>Does the IFB, including specifications and pertinent attachments, clearly define the items or services needed in order for the bidders to properly respond to the IFB?</p> <p>[2 CFR 200.320(b)(1)(ii)(B)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iii)(c)	<p>Were all bids opened at the time and place stated in the IFB and, for local and tribal governments, were the bids opened publicly?</p> <p>[2 CFR 200.320(b)(1)(ii)(C)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iii)(d)	<p>Was a firm, fixed-price contract awarded to the lowest responsive and responsible bidder, considering factors such as discounts, transportation cost, and life cycle costs?</p> <p>[2 CFR 200.320(b)(1)(ii)(D)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iii)(e)	<p>If any bids were rejected, was there a sound documented reason?</p> <p>[2 CFR 200.320(b)(1)(ii)(E)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iv)	<p>Competitive Proposals - This procurement method is generally used when conditions are not appropriate for the use of sealed bids.</p>				
2(iv)(a)	<p>Did the non-Federal entity identify all evaluation factors and their relevant importance in the Request for Proposals (RFP), publicize the RFP and, to the maximum extent practicable, consider all responses to the RFP?</p> <p>[2 CFR 200.320(b)(2)(i)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iv)(b)	<p>Were proposals solicited from an adequate number of qualified sources?</p> <p>[2 CFR 200.320(b)(2)(i)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iv)(c)	<p>Did the non-Federal entity have a written method for conducting technical evaluations of the proposals received and for selecting recipients?</p> <p>[2 CFR 200.320(b)(2)(ii)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iv)(d)	<p>Was the contract awarded to the responsible firm whose proposal was most advantageous to the program, with price and other factors considered?</p> <p>[CFR 200.320(b)(2)(iii)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2(iv)(e)	<p>If price was not used as a selection factor, did the procurement: (1) consist of a qualification-based procurement of architectural/engineering professional services, (2) focus on evaluation of competitors' qualifications and selection of the most qualified competitor, and (3) include negotiation of fair and reasonable compensation?</p> <p>[2 CFR 200.320(b)(2)(iv)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

2(v)	Noncompetitive Procurement - Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source. NOTE: 2 CFR 200.320(c)(4) is specifically excluded for ARPA and is not listed here for that purpose.				
2(v)(a)	<p>For each sample transaction that consisted of solicitation of a proposal from only one source, can the non-Federal entity show that one or more of the following circumstances apply:</p> <ul style="list-style-type: none"> • the acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see section 2(i), • the item was only available from a single source, • a public exigency or emergency for the requirement did not permit a delay resulting from competitive solicitation, or • after solicitation of a number of sources, competition was determined inadequate. <p>[2 CFR 200.320(c)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Section 3 - Contracting with Small & Minority Firms, Women's Business Enterprises & Labor Surplus Area Firms		Yes	No	N/A	Notes
3(i)	Does the non-Federal entity take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible, including:				
3(i)(a)	<p>a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists?</p> <p>[2 CFR 200.321(a); 2 CFR 200.321(b)(1)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3(i)(b)	<p>b. Assuring that such businesses are solicited whenever they are potential sources?</p> <p>[2 CFR 200.321(a); 2 CFR 200.321(b)(2)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3(i)(c)	<p>c. Dividing procurement requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses?</p> <p>[2 CFR 200.321(a); 2 CFR 200.321(b)(3)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3(i)(d)	<p>d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises?</p> <p>[2 CFR 200.321(a); 2 CFR 200.321(b)(4)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3(i)(e)	<p>e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce?</p> <p>[2 CFR 200.321(a); 2 CFR 200.321(b)(5)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3(i)(f)	<p>f. Requiring prime contractors, when subcontracts are let, to take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to select small, minority-owned and women-owned businesses in grant-funded contracts?</p> <p>[2 CFR 200.321(a); 2 CFR 200.321(b)(6)]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Section 4 - Domestic Preference		Yes	No	N/A	Notes
4(i)	<p>Did the Non-Federal Entity provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Also covered in 8(i).</p> <p>[2 CFR 200.322]</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Section 5 - Recovered Materials		Yes	No	N/A	Notes
5(i)	<p>"As provided at 2 CFR 200.323, a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.</p> <p>If the non-Federal entity is a state agency or an agency of a political subdivision of a state, do the non-Federal entity's procurement procedures include a process for ensuring compliance with the requirements of this provision on recovered materials? Also covered in 8(i).</p> <p>[2 CFR 200.323]"</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Section 6 - Contract Cost and Price		Yes	No	N/A	Notes
6(i)	<p>"Do the non-Federal entity's policies and procedures require an independent cost estimate prior to receiving bids or proposals for every procurement action in excess of the Simplified Acquisition Threshold?</p> <p>[2 CFR 200.324(a)]"</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6(ii)	<p>"For each sample transaction, is there evidence within the solicitations sampled that the non-Federal entity performed an independent cost estimate prior to receiving bids or proposals?</p> <p>[2 CFR 200.324(a)]"</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6(iii)	<p>"For all sealed bids, competitive proposals, or contract modifications above the Simplified Acquisition Threshold, was a cost or price analysis completed to ensure price and/or cost were considered reasonable?</p> <p>Note: In most instances, this requires a separate analysis done outside of establishing an Independent Cost Estimate (ICE) as outlined in 6(ii) above but in conjunction with reviewing a proposer's price or cost in relation to the ICE (e.g., Bid Tabulations, Cost Certification Sheets on hourly rates, etc).</p> <p>[2 CFR 200.324(a-c)] "</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6(iv)	<p>"Was a ""cost plus a percentage of cost"" or ""percentage of construction cost"" pricing used for the contract? This type of contract is generally not allowed.</p> <p>[2 CFR 200.324(d)]"</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Section 7 - Bonding Requirement		Yes	No	N/A	Notes
7(i)	<p>"If contracts have been awarded for construction or facility improvements that exceed the Simplified Acquisition Threshold, does the non-Federal entity meet the minimum Federal requirements for bid guarantees, performance bonds and payment bonds in 2 CFR 200.326 (or, alternatively, the bonding requirements of the recipient or subrecipient) if HUD or the pass-through entity has determined the Federal interest is adequately protected?</p> <p>[2 CFR 200.326]"</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Section 8 - Contract Provisions		Yes	No	N/A	Notes
8(i)	<p>"For each of its procurement contracts, can the non-Federal entity document that it reviewed the applicability of the provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards (and noted briefly below) and included the applicable provisions in the contract?</p> <p>a. Remedies for violation or breach of contract terms? b. Termination for cause and termination for convenience provisions? c. Equal Employment Opportunity? d. Davis-Bacon Act and Copeland "Anti-Kickback" Act? e. Contract Work Hours and Safety Standards Act? f. Rights to Inventions Made Under a Contract or Agreement? g. Clean Air Act and Federal Water Pollution Control Act? h. Debarment and Suspension? i. Byrd Anti-Lobbying Amendment? j. Procurement of Recovered Materials? k. Prohibition of certain telecommunications and video surveillance services or equipment? l. Domestic preferences for procurements?</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
	[2 CFR 200.327]"				