

**Federal Regulations for Government Agencies
24 CFR Part 85
Procurement Standards**

This information is provided as an outline and is not intended to be a complete summary of the regulations. Please read 24 CFR Part 85 to ensure compliance in all areas.

Section Name And Reference Number	Description
Procurement Standards 85.36 Sect (b)	<ul style="list-style-type: none"> • Grantees and subgrantees will use their own procurement procedures which reflect applicable state and local laws and regulations. • Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. • No employee, officer or agent of the grantee or subgrantee may participate in the award and administration of contracts if there is a conflict of interest, such as financial or other interest, with the firm selected for award by: <ul style="list-style-type: none"> a. the employee, officer or agent; b. a family member of the above; c. a partner of any of the above; or d. an organization which employs or is about to employ any of the above • Grantee or subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicate items. • Grantees and subgrantees are encouraged to enter into state and local intergovernmental agreements for procurement of use of common goods and services. • Grantees and subgrantees are encouraged to use federal excess and surplus property in lieu of purchasing new equipment whenever such cost is feasible and reduces project costs. • Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction project of sufficient size to offer reasonable opportunities for cost reductions. • Grantees and subgrantees will make awards only to responsible contractors after giving consideration to factors including: <ul style="list-style-type: none"> a. contractor integrity;

<p>Procurement Standards 85.36 Sect (b) (continued)</p> <p>85.36 Sect (e)</p>	<ul style="list-style-type: none"> b. compliance with public policy; c. record of past performance; and d. financial and technical resources. <ul style="list-style-type: none"> • Grantees and subgrantees will maintain records including, but not limited to: <ul style="list-style-type: none"> a. rationale for method of procurement; b. selection of contract type; c. contractor selection or rejection; and d. basis for the contract price. • Grantees and subgrantees use time and material type contracts if one of the following is true: <ul style="list-style-type: none"> a. it is determined no other contract is suitable b. the contract includes a ceiling price that the contractor exceeds at its own risk • Grantees and subgrantees are responsible for settling all contractual and administrative issues arising out of procurements including, but not limited to: <ul style="list-style-type: none"> a. source evaluation b. protests c. disputes d. claims • The grantee and subgrantee will take necessary affirmative action steps to assure that minority firms, women’s business enterprise and area labor surplus firms are used when possible, including: <ul style="list-style-type: none"> a. placing qualified small, minority and women’s business enterprises on solicitation lists; b. assuring that small, minority and women’s business owners are solicited whenever they are potential sources; c. dividing total requirements, whenever feasible, into smaller tasks or quantities to permit maximum participation by small, minority or women’s business enterprises; d. establishing delivery schedules which encourage participation by small, minority or women’s business enterprises; e. using the services of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and f. requiring the prime contractor, if there are subcontracts, to take the steps listed above.
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	<p>proposal that is most advantageous to the program.</p> <ul style="list-style-type: none">• Noncompetitive proposals may only be used if:<ul style="list-style-type: none">a. the item is available only from a single source;b. the public need or emergency for the requirement will not allow for a delay caused from competitive solicitation;c. the awarding agency authorizes noncompetitive proposals;andd. after soliciting several sources, competition is deemed inadequate.
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<p>Methods of Procurement 85.36 Sect (d)</p>	<ul style="list-style-type: none"> • Procurement by small purchase procedures is to be used when the purchase is less than \$100,000. • Procurement by sealed bids is to be used when the following conditions are present: <ul style="list-style-type: none"> a. a complete, adequate and realistic specification or purchase description is available b. two or more responsible bidders are willing and able to compete c. the procurement lends itself to a firm fixed price contract • If sealed bids are used, the following requirements apply: <ul style="list-style-type: none"> a. The invitation for bids will be advertised and known suppliers solicited with the adequate time for the bidder to properly respond b. The invitation for bids shall define the items or services in order for the bidder to properly respond c. All bids are publicly opened at the time and place stated in the invitation d. A firm-fixed price contract award will be made in writing to the lowest responsive and responsible bidder e. Any or all bids may be rejected if there is a sound, documented reason
<p>Bonding Requirements 85.36 Sect (h)</p>	<ul style="list-style-type: none"> • A bid guarantee from each bidder equivalent to 5 percent of the bid price • A performance bond on the part of the contractor for 100 percent of the contract price • A payment bond on the part of the contractor for 100 percent of the contract price
<p>Contract Provisions 85.36 Sect (I)</p>	<ul style="list-style-type: none"> • Administrative, contractual or legal remedies when contractors violate or breach contract terms • Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be affected and the basis for settlement • Compliance with Executive Order 11246, “Equal Employment Opportunity” • Compliance with the Copeland “Anti-Kickback” Act • Compliance with the Davis-Bacon Act • Notice of awarding agency requirements and regulations

	<p>pertaining to reporting</p> <ul style="list-style-type: none">• Notice of award agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract• Awarding agency requirements and regulations pertaining to copyrights and rights in data• Access by any duly authorized representative to all books, etc., of the grantee or subgrantee for the purpose of making an audit, etc.• Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed (HOME regulation require record retention for 5 years after the affordability period.)• Compliance with all applicable requirements of the Clean Air Act and Environmental Protection Agency regulations• Mandatory standards and policies relating to energy efficiency issued in compliance with the Energy Policy and Conservation Act
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