

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 1 OF 14

APPROVAL:

Samuel R. Viavattine
Deputy Commissioner
Sandy Recovery Division

Laura Shea
Assistant Commissioner
Sandy Recovery Division

OVERVIEW:

The State of New Jersey (hereinafter referred to as “N.J.”, “State” or “Grantee”) is an intended recipient of Community Development Block Grant – National Disaster Resiliency Competition Grant (“CDBG-NDR”) funds made available pursuant to the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (“Appropriations Act”) and distributed by the U.S. Department of Housing and Urban Development (“HUD”). HUD’s procurement standards for state entities are codified at 2 C.F.R. §§200.317-200.326, attached hereto as Appendix A. 2 C.F.R. §200.317 provides that “a state must follow the same policies and procedures it uses for procurements from its non-Federal funds.” *See also* 24 C.F.R. § 570.489(g) (when procuring goods and services using CDBG funds, “the State shall follow its procurement policies and procedures”).

Pursuant to the CDBG-NDR Federal Register Notice, 81 Fed. Reg. 36557 (June 7, 2016), the effect of the State’s “procurement processes/standards must be equivalent to the effect of procurements under 2 C.F.R. 200.318-200.326, meaning that they operate in a manner providing fair and open competition.” 81 Fed. Reg. 36557 (June 7, 2016).

All procurement activities shall adhere to the principles and standards governing Federal grant distribution or their equivalent in State law, and all applicable State procurement laws, including but not limited to Executive Order 125 (Christie 2013).

All procurements using CDBG-NDR funds will be processed pursuant to State procedures through the Division of Purchase and Property (“DPP”). N.J. Department of the Treasury Circular 13-15-DPP, Purchases from Federal Supply Schedules or Schedules of Other Federal Procurement

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 2 OF 14

Programs (effective February 5, 2013, or as may be amended), sets forth the procedure for establishing a State contract based on the pricing offered through a federal procurement program, including but not limited to the U.S. General Services Administration (“GSA”), the Department of Veterans Affairs (“VA”), and the Defense Logistics Agency (“DLA”). DPP, within the N.J. Department of the Treasury, is the State’s central procurement agency and is the entity responsible for Circular 13-15-DPP, as well as other procurement-related circulars and guidance at N.J.A.C. 17:12. Although DCA and other State agencies may possess their own statutory procurement authority, all procurements using CDBG-NDR funds will be processed through DPP to ensure compliance with 2 C.F.R. §200.317 and fair and open competition.

To be clear, New Jersey does *not* purchase *through* GSA eBuy or other federal procurement schedules; rather, State law authorizes the Director of DPP to “promulgate the Federal Supply Schedules of the Federal General Services Administration or schedules from other federal procurement programs . . . as an alternate price guide for the purchase of goods and services,” which in turn permits DPP to create a State contract based upon the federal pricing. See N.J.S.A. 52:34-6.1. The overarching purpose of this process is to obtain goods and services that are most advantageous to the State, price and other factors considered, while maintaining a level playing field for all vendors through competition and transparency.

For reference, DPP statutes are found at N.J.S.A. 52:34-6 et seq., and administrative regulations pertaining to DPP operations are found at N.J.A.C. 17:12 et seq.

All other non-Federal entities, including subrecipients of the State who are not State entities, will follow 2 C.F.R. §§200.318 “General procurement standards” through 200.326 “Contract provisions.”

The State hereby submits that its procurement processes provide for fair and open competition and are therefore equivalent to the effect of the procurement standards set forth in 2 C.F.R. §§200.318-200.326. To allow HUD to evaluate the overall effect of the State’s procurement standards in

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 3 OF 14

accordance with 81 Fed. Reg. 36557 (June 7, 2016), the following crosswalk indicates where the State's procurement standards align with provisions of 2 C.F.R. §§200.318–200.326:

2 C.F.R. §200.213 Suspension and Debarment

2 C.F.R. §200.213: *“Non-Federal entities are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.”* Before awarding a contract using CDBG funds, DCA consults the Federal System for Award Management (“SAM”) for listings of contractors suspended, proposals for debarment and debarment. DPP maintains a central debarment list and its causes for debarment are set forth at N.J.A.C. 17:12-6.3, Causes for debarment of a person(s). In addition, Section 2.10 of the State's Standard Terms and Conditions, which are applicable to all contracts entered into by the State, requires that “[t]he contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.” SAM notwithstanding, the State's administrative regulations, coupled with the State's Standard Terms and Conditions, will effectively eliminate any debarred or suspended entity from consideration for a disaster recovery contract award.

2 C.F.R. §200.317 States.

2 C.F.R. §200.317: *“When procuring property and services under a grant, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds.”* With respect to GSA procurements, Circular 13-15-DPP is the source of guidance for navigating this process, regardless of funding source. A copy of this circular is attached for reference as Appendix B.

2 C.F.R. §200.318 General Procurement standards.

2 C.F.R. §200.318(a): *“The non-Federal entity must use its own documented procurement procedures which reflect applicable State, and local laws and regulations, provided that the*

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 4 OF 14

procurements conform to applicable Federal law and the standards identified in this section.”

Circular 13-15-DPP was crafted in accordance with State law and DPP regulations. The procurements conducted pursuant to this procedure also comply with applicable Federal laws. DPP copies the Department of Defense (DOD) GSA procurement process to ensure full and open competition. DPP procurement specialists review procurements on a case-by-case basis to ensure compliance with subject-specific Federal laws (e.g. Davis-Bacon Act for public works procurements). Procurement specialists also monitor State and federal debarment lists and political contribution databases for “Pay to Play” conflicts prior to awarding contracts.

2 C.F.R. §200.318(b): *“Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.”* While it is no longer a requirement for non-Federal entities to maintain a contract administration system, DPP maintains a Contract Compliance and Audit Unit, which is authorized by N.J.A.C. 17:12-4 to request and audit records related to State procurements, either as discovery related to a complaint or for any other reason to ensure that contractors are performing in compliance with contract terms and conditions. In addition, vendors and agencies are required to submit reports to DPP on a regular basis to ensure that the contracts are performed in accordance with the specified terms.

Additionally, the independent Office of the State Comptroller is responsible for auditing and monitoring the solicitation of proposals and the awarding of State contracts that involve “a significant consideration or expenditure of funds or are comprised of complex or unique components. . . .” See N.J.S.A. §§ 52:15C-7 and 52:15C-10. Pursuant to Executive Order Number 125 (“EO 125”), the State Comptroller reviews all Sandy-related procurements and contract amendments.

2 C.F.R. §200.318(c)(1): *“The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts.”* All State employees are bound by the Uniform Ethics Code, which outlines the code of conduct for all employees and is borne from New Jersey’s Conflict of Interests Law. The State Ethics Commission administers and enforces the Conflicts of Interest Law, N.J.S.A. 52:13D-12, et seq. The Commission consists of seven

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 5 OF 14

(7) members, four (4) public members appointed by the Governor to staggered terms and three (3) Executive Branch employees who are appointed by and serve at the pleasure of the Governor. Additionally, the New Jersey Code of Local Government Ethics Law (N.J.S.A. 40A:9-22.1) provides a written code of standards of conduct which governs the performance of employees engaged in the award and administration of contracts.

The State also maintains a *Plain Language Guide to Ethical Business Conduct for Companies Transacting Business with the State of New Jersey* ("Guide"). This Guide covers a wide range of business practices and procedures, setting forth basic principles to guide all employees, officers, and directors of companies transacting business with the State of New Jersey. The Guide is publicly available on the Department's website at http://www.state.nj.us/treasury/purchase/ethics_guide.shtml

In addition, the Department of the Treasury requires that all employees involved in the "drafting, reviewing, evaluating or making contract awards, or substantively assisting in any of those tasks, or authorizing payments under those contracts" must complete a *Personal and Business Relationships Disclosure Form*, which is reviewed and approved by the Department's Ethics Liaison Officer. These forms must be completed annually and employees are subject to discipline and/or prosecution for submitting false information. In addition, DPP requires all employees that serve on Evaluation Committees to complete a form that requires committee participants to maintain confidentiality and screen participants for potential conflicts of interest. This process is documented in a Divisional Standard Operating Procedure.

2 C.F.R. §200.318(c)(2): "If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest."

The Department of Community Affairs and DPP are State entities and do not have any parent, affiliate, or subsidiary organizations that are not State entities.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 6 OF 14

2 C.F.R. §200.318(d): *“The non-Federal entity’s procedures must avoid acquisition of unnecessary or duplicative items.”* With respect to GSA procurements, DPP regulations at N.J.A.C. 17:12-1A.5 mandate that Federal supply schedule-based contracts shall only be promulgated when the following conditions have been met:

1. The price of the good and/or service being procured is no greater than the price offered to Federal agencies;
2. The State receives the benefit of any contract price reductions, whether statutory, regulatory or contractual in nature, during the term of the contract; and
3. The price of the good and/or service under consideration for purchase via a Federal supply schedule contract is not equal to or greater than the State contract price for the same or equivalent goods or services, unless the Director determines that the best interests of the State are served by use of the proposed Federal supply schedule-based contract.

Goods and services obtained through these contracts must be procured in a way that is most advantageous to the State, price and other factors considered.

2 C.F.R. §200.318(e): *“To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into State and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.”* To further leverage the economy of scale provided by the Federal supply schedules, DPP regulations permit local use of State contracts based on Federal supply schedules pursuant to N.J.A.C. 17:12-2.3.

2 C.F.R. §200.318(f): *“The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.”* The State makes every effort to utilize Federal excess and surplus property when doing so is consistent with State law and Department policy.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 7 OF 14

2 C.F.R. §200.318(g): *“The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.”* The State makes every effort to utilize value engineering clauses for applicable construction projects when doing so is consistent with State law and Department policy.

2 C.F.R. §200.318(h): *“The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.”* Procurement specialists and evaluation committee members carefully and thoroughly review proposals and mandatory forms to ensure that procurements are awarded to responsible bidders. State law requires that bidders provide evidence of ownership disclosure, political contributions and disclosure of investments in Iran. In addition, Department policy mandates that bidders provide disclosure of investigations or other adverse actions prior to award. Proposals are evaluated based on a number of factors, including the bidder’s ability to successfully perform the contract. Procurement specialists are also responsible for monitoring State and federal debarment lists as well as political contribution databases for “Pay to Play” conflicts prior to awarding contracts.

DPP maintains a central debarment list and its causes for debarment are set forth at N.J.A.C. 17:12-6.3, Causes for debarment of a person(s). In addition, Section 2.10 of the State’s Standard Terms and Conditions, which are applicable to all contracts entered into by the State, requires that “[t]he contractor must comply with all local, State and Federal laws, rules and regulations applicable to this contract and to the goods delivered and/or services performed hereunder.” These administrative regulations, coupled with the State’s Standard Terms and Conditions, will effectively eliminate any debarred or suspended entity from consideration for a disaster recovery contract award. The State must ensure compliance with 2 C.F.R. §200.213 “Suspension and debarment.”

Additionally, the independent Office of the State Comptroller is responsible for auditing and monitoring the solicitation of proposals and the awarding of State contracts that involve “a significant consideration or expenditure of funds or are comprised of complex or unique components. . . .” See N.J.S.A. §§ 52:15C-7 and 52:15C-10. Pursuant to EO 125, the State Comptroller reviews all Sandy-related procurements and contract amendments.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 8 OF 14

2 C.F.R. §200.318(i): *The non-Federal entity must maintain records sufficient to detail the history of procurement.* As part of DPP's pre-approval process, agencies are required to research the various federal program schedules to identify vendors that sell the desired goods or services and must obtain price quotes from at least three viable vendors by giving all solicited vendors the same opportunity to provide a price quote and the same information regarding work to be performed as well as the conditions of the proposed Federally-based contract to ensure that all vendors are on a level playing field. If agency due diligence reveals that fewer than three vendors offer the required good or service, the agency must document this fact. All research, vendor selection determination and supporting documentation are provided to DPP which is made part of the permanent file and retained by DPP for a minimum of 7 years.

2 C.F.R. §200.318(j)(1): *"The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of: i) the actual cost of materials; and ii) direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit."* Every effort is made to avoid the use of time and material contracts. In the limited instances where these contracts are used, the contract complies with the conditions set forth in this subsection. All contracts awarded for recovery efforts will require a task-order process on firm fixed price or a not to exceed basis before any expenditure of funds under that contract.

2 C.F.R. §200.318(j)(2): *"Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.* Pursuant to EO 125, before a contract related to Sandy is awarded, and any amendments to a Sandy contract are reviewed by the State

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 9 OF 14

Comptroller. In the limited instances where time and materials contracts are utilized by DPP, a “not to exceed” ceiling price for the contract is established in compliance with federal regulations. The State Comptroller also maintains a Transparency website on which is posted all Superstorm Sandy contract-related documents, including but not limited to, Requests for Quotations, Proposals and the value of awards. To help foster effective oversight on a daily basis, each State Contract Manager must pass an online exam sponsored by DPP that addresses the responsibilities and best practices of contract management.

2 C.F.R. §200.318(k): *“The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.”* All issues arising out of and pertaining to procurements are handled either by the State Contract Manager or DPP. Protests are handled by DPP Hearing Officers, pursuant to procedures set forth at N.J.A.C. 17:12-3. Complaints are handled by DPP’s CCAU unit pursuant to procedures set forth at N.J.A.C. 17:12-4. With regard to protest procedures, the State Contract Manager is also empowered to deal with various administrative procurement issues. Awards through a GSA RFQ are made by the Procurement Bureau within DPP. All protests of Procurement Bureau awards to the Director are handled by DPP Hearing Officers, pursuant to procedures set forth at N.J.A.C. 17:12-3. Protests handled by DPP Hearing Officers are then appealable to the Appellate Division of the New Jersey Superior Court.

2 C.F.R. 200.319 Competition

2 C.F.R. §200.319(a): *“All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.”* The overarching purpose of the State’s procurement process is to obtain goods and services that are most advantageous to the State, price and other factors considered, while maintaining a level playing field for all vendors through competition and transparency.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 10 OF 14

DPP, through its previous interactions with FEMA in the development of the debris removal contracts, is fully aware of the need to maintain full and open competition and a level playing field for all participants in the procurement process. Specifications, requirements, scopes of work, and requests for proposal are developed by the using agencies in concert with DPP and are developed in such a way as to ensure fair and open competition. In the event that a procurement is so complex or technical that development of specification requires the assistance or engagement of a contractor by the State, that contractor would be excluded from competing that procurement or participating as a subcontractor in any resultant contracts.

2 C.F.R. §200.319(b): *“The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals”* To combat the perception of local favoritism that can be inferred from such local preference laws, many states have promulgated statutes and regulations to enforce reciprocal action against states and localities. New Jersey is no exception. N.J.A.C. 17:12-2.13, *Preference laws; out-of-State vendors*, states in part that “. . . the Director shall apply on a reciprocal basis against an out-of-State bidder any in-State preference which is applied in favor of that bidder by the state or locality in which the bidder maintains its principal place of business.”

2 C.F.R. §200.319(c): *“The non-Federal entity must have written procedures for procurement transactions.”* DPP advises bidders of the criteria to be used in the evaluation of proposals and these criteria are clearly described and outlined in the procurement documents. The criteria are weighted by the procurement specialist prior to the proposal submission date and these weights are not disclosed to the bidders until an award has been made. The procurement document sets forth a written description of the technical requirements necessary for bidders to submit a responsive proposal, including but not limited to, delivery and submission requirements, forms and certifications to be included with the proposal, and submittals comprising the technical and price proposals. The procurement documents further set forth the general evaluation criteria to be used in the technical evaluation of the proposals. In addition, a pricing evaluation model is generally set forth in the procurement documents which serve as the basis for the ranking of bidder submitted price proposals.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 11 OF 14

2 C.F.R. §200.319(d): *“The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.”* Currently, DPP does not maintain any prequalification lists for vendors or otherwise related to the procurement of goods or services administered through DPP. In the event that DPP adopts a prequalification procedure in the future, this process will be developed with an eye toward maximizing full and open competition. At times, DPP may procure a multiple award contract to a pool of contractors that have succeeded our advertised competitive process. In those instances both a task-order based process and a “mini-bid” process will occur before any work is performed under that type of contract.

2 C.F.R. §200.320 Methods of procurement to be followed.

It is difficult to compare each specific standard in this subsection with specific State policies; however, the process set forth in Circular 13-15-DPP is equivalent to the effect of Federal standards set forth in this section by ensuring full and open competition and a level playing field for all bidders by requiring quotes from at least three viable sources, publication of evaluation criteria, clearly written scope of services, a thorough technical evaluation of proposals, and awards to responsible vendors whose proposals are most advantageous to the State, price and other factors considered. When the Procurement Bureau within DPP conducts an RFQ posted through GSA, the regular procurement lifecycle is completed, albeit in a condensed timeframe. After the RFQ is posted, a question and answer period is conducted. The RFQ contains standard terms and conditions and Best and Final Offers (similar to Final Proposal Revisions) are requested from bidders determined to be in the competitive range. After the intent to award is issued, unsuccessful bidders may request a debriefing and if necessary, may submit a protest to the Director. Protests are heard in accordance with N.J.A.C. 17:12-3. It is the State’s intention to use the Procurement Bureau to the maximum extent practicable for all HUD grant funded procurements.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 12 OF 14

Pursuant to Circular Number 16-02-DPP, Delegated Purchase Authority, DPP establishes thresholds for simplified procurement methods for purchases that do not exceed \$40,000. Micro-purchases, or those valued at less than \$1,000 can be issued without price competition. Purchases between \$1,000 and \$17,500 may be accomplished by soliciting three (3) telephone quotations, internet quotations, or signed facsimile quotations. All vendors are provided with the same information on the good or service to be acquired and the same terms and conditions to assure fair competition. The date and time for each quote is noted and retained. For purchases valued at less than \$40,000 but more than \$17,500, an agency must solicit a minimum of three sealed written quotes. The Agency Request for Proposal, which includes the deadline for submissions, is distributed to all vendors at the same time. The agency establishes internal control procedures for the acceptance, security, review and evaluation of the sealed quotes. Generally, the vendor with the lowest price is entitled to award, provided that the vendor's proposal fully conforms to the terms and conditions of the agency's specifications and the State's Terms and Conditions.

2 C.F.R. §200.321 Contracting with small and minority businesses, women's business enterprises and labor surplus area firms.

State law prohibits the establishment of set-aside goals based on race or gender. The State has adopted a goal that 25% of contracts (by dollar value) should be awarded to small businesses, however, and when appropriate, DPP will designate certain contracts or subcontracting opportunities as "Small Business Set Asides." DPP strongly encourages the use of small, minority, women and veteran-owned New Jersey businesses and invites the successful bidders to utilize resources that match the needs of prime contractors with these vendors.

2 C.F.R. §200.322 Procurement of recovered materials.

Pursuant to 2 C.F.R. §200.317, the State will comply with this subsection and section 6002 of the Solid Waste Disposal Act.

2 C.F.R. §200.323 Contract cost and price.

It is difficult to compare each specific standard in this section with specific State policies; however, the State's policy overall is equivalent to the effect of the standards set forth

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 13 OF 14

in this section with respect to GSA procurements as DPP regulations at N.J.A.C. 17:12-1A.5 mandate that Federal supply schedule-based contracts shall only be promulgated when the following conditions have been met:

1. The price of the good and/or service being procured is no greater than the price offered to Federal agencies;
2. The State receives the benefit of any contract price reductions, whether statutory, regulatory or contractual in nature, during the term of the contract; and
3. The price of the good and/or service under consideration for purchase via a Federal supply schedule contract is not equal to or greater than the State contract price for the same or equivalent goods or services, unless the Director determines that the best interests of the State are served by use of the proposed Federal supply schedule-based contract.

Therefore, this cost analysis must be undertaken by the agency prior to submission to DPP as part of the pre-approval process outlined in the Circular. Goods and services obtained through these contracts must be procured in a way that is most advantageous to the State, price and other factors considered. When the Procurement Bureau itself conducts an RFQ posted through GSA, the regular procurement lifecycle is completed, albeit in a condensed timeframe. After the RFQ is posted, a question and answer period is conducted. The RFQ contains standard terms and conditions and BAFOs are requested from bidders determined to be in the competitive range. Depending on the dollar value of the procurement, a DPP pricing analyst will also review the reasonableness of the pricing prior to award. After the intent to award is issued, unsuccessful bidders may request a debriefing and if necessary, may submit a protest to the Director. Protests are heard in accordance with N.J.A.C. 17:12-3.

2 C.F.R. §200.324 Federal awarding agency or pass-through entity review.

It is difficult to compare each specific standard in this section with specific State policies; however, the State's practice is equivalent to the effect of the standards set forth in this section as agencies must submit to DPP a pre-approval package, including among other items, the specification, Federal supply schedule, proposed vendor(s), and cost analysis. Prior to contract creation, DPP will thoroughly review the package and conduct a pre-award review with the agencies to ensure that a level playing field and full and open competition were maintained.

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

SUBJECT: Procurement Policy – CDBG-NDR

NUMBER: 2.10.93

EFFECTIVE: July 2016

SANDY CDBG-NDR

PAGE 14 OF 14

When the Procurement Bureau itself conducts an RFQ posted through GSA, the regular procurement lifecycle is completed, albeit in a condensed timeframe. After the RFQ is posted, a question and answer period is conducted. The RFQ contains standard terms and conditions and BAFOs are requested from bidders determined to be in the competitive range. Depending on the dollar value of the procurement, a DPP pricing analyst will also review the reasonableness of the pricing prior to award. After the intent to award is issued, unsuccessful bidders may request a debriefing and if necessary, may submit a protest to the Director. Protests are heard in accordance with N.J.A.C. 17:12-3. Upon request, DPP will allow HUD to review pre-procurement documents for CDBG-NDR funded contracts.

2 C.F.R. §200.325 Bonding requirements.

This section is largely inapplicable to State procurements based on Federal supply schedule pricing. If the service being procured requires bonding to protect the State's interests, the Procurement Bureau will include applicable bonding in accordance with the provisions of this subsection.

2 C.F.R. §200.326 Contract provisions

Pursuant to 2 C.F.R. §200.317, the State will comply with this section and ensure that every purchase order or other contract includes any clauses required by this subsection.