City of Columbia's Quick Reference Procurement Guide (CDBG-DR)

"SC Severe Storms & Flooding

October 2015 Event

DR 4241/3373

Procurement by Non-Federal Entities Other Than States

When procuring property and services under a Federal award, all non-Federal entities that are not States must follow 2 CFR Sections 200.318 through 200.326 and the City is also subject to 2 CFR200.100, as applicable.

Disclaimer: The City of Columbia shall establish procedures in accordance with the City of Columbia's Procurement Regulations, SC Procurement Code, CFR 200, Uniform Rules set forth in C.F.R. 200.317-326 and all other applicable State, Federal & local laws, rules and governing procedures. This guide is intended to be a quick reference guide only for internal users to conduct sound procurement practices as part of the City of Columbia's Disaster Recovery Continuity of Operations (COOP) Plan. Other public entities may be required to follow other guidance but this guide is to be used for SC Severe Storms & Flooding DR 4241/3373 procurement and contracting opportunities conducted by the City of Columbia as of October 2015.

*****This guide is subject to change as updates are released by the Purchasing Division *****

COC Disaster Recovery

Procurement Tips

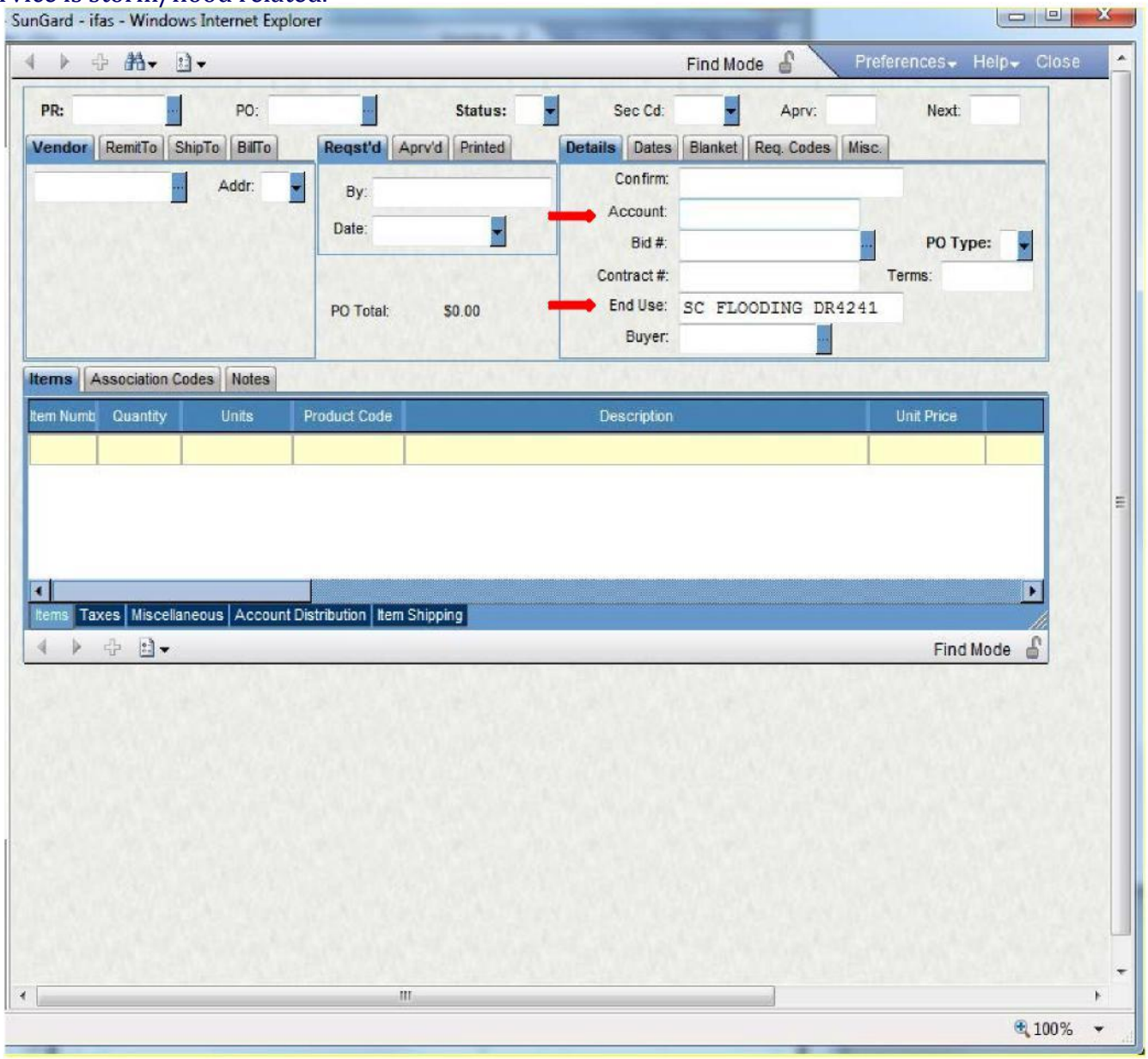
- ☑ Determine the Actual "Need" and verify if the item or service is related to the SC Severe Storms & Flooding DR 4241/3373
- ☑ Determine the estimated dollar value of the procurement and complete the COC/CDBG-DR (HUD) Procurement Checklist on page ___
- ☑ Contact Purchasing or Contracts Office for procurement assistance
- ☑ Submit requisitions through to Purchasing
- ☑ Add in the "Account" field in IFAS on your requisition your current (original) account information (See next page)
- ☑ Add in the "End Use" field in IFAS on requisition:
  SC FLOODING DR 4241/3373
- ☑ ***Full & Open Competition Required***
- ☑ Encourage Small, Minority & Women-Owned Business Participation
- ☑ Utilize labor surplus firms (see definition)
- ☑ No Split purchases shall be made to avoid procurement thresholds
- ☑ Advertise in SC Business Opportunities (SCBO)
- ☑ Solicitations will be posted on COC Website under Procurement Opportunities
- ☑ Utilize Emergency Procurement Form only for valid pre-approved "Emergencies" (See pages 6 -7)
- ☑ All quotes must be solicited and responses must be in writing prior to orders placed and POs issued
- ☑ Price gouging during emergency events is strictly prohibited as outlined in SC Code of Laws Section 39-5-145. If you have concerns about excessive pricing, please contact the Purchasing Office immediately and this matter will be escalated to Legal.
- ☑ Vendors/Contractors Debarred or Suspended may not participate in the bid process.

Account Field:

Please see screenshot below for placement of your standard account information (prior to Purchasing changing the account code to the SC Flooding related funding code). This is required in case the item or service is ineligible for reimbursement under FEMA guidelines then the funds will be changed back to the appropriate funding codes you have specified in this block based on your original (non-FEMA) approved budget category.

Also, please remember to place your original (non-CDBG-DR (HUD)) funding codes on the requisition in the normal location for account info which is located to the right of the Unit Price field. **Use object code _____ for all items!** Purchasing will make the necessary changes to reflect CDBG-DR (HUD) _coding.

End Use Field: Please add in this field on your IFAS requisition: SC FLOODING DR_____ if the item or service is storm/flood related.



COC/FEMA Disaster Recovery Procurement Checklist (Departmental)

Requisition Number: R----------

Requested Item or Service Description:

This form shall be used as a procurement checklist and reference tool for Severe Storms and Flooding DR4241/DR3373 procurements only. The final completed checklist and attachments shall be scanned into IFAS and will also be used as part of our final documentation when completing FEMA After Action Reports.

Check One	Procurement Threshold*	Action Needed	Yes or No	Reference
	Is this request a micro-purchase (less than $3,500.00)?	If so, did you attach at least one (1) written quote?		2 CFR §200.320(a)
	Is this request a small purchase ($3, 500.01-$25,000.00)?	If so, are three (3) written quotes attached?		2 CFR §200.320(b)
	Is this request a large purchase ($25,000.01 and higher)?	If so, this procurement must be handled by the Purchasing Division, Engineering's Contracts Office or Construction Bid Coordinators.		COC Appendix G & 2 CFR §§200.317-326
	Did you place the original (non-CDBG-DR (HUD)) funding info in the "ACCOUNT" field on	Review previous page for Instructions.		COC Internal DR 4241 Procedures
	Did you place the appropriate flood code in the END USE field?	Review previous page for instructions. SC FLOODING DR-4241/3373		COC Internal DR 4241 Procedures

- All quotes must be accepted from **responsive and responsible bidders only**.

*The thresholds listed above are a compilation of 2 C.F.R. §200.320 and City of Columbia's Appendix G based on the most stringent threshold per category.

Notes _____

_____

CDBG-DR (HUD) Public Assistance Program Additional Requirements –

The City understands and will adhere to the following requirements as outline in HUD's Docket No. FR-5938-N-01:

c. ***Additional requirements related to procurement (States and local governments).*** HUD may request periodic updates from grantees that employ contractors. A contractor is a third party firm that the grantee acquires through a **procurement process to perform specific functions, consistent with the procurement requirements in the CDBG program regulations;** a subrecipient is not a contractor. For contractors employed to provide discrete services or deliverables only, HUD is establishing an additional alternative requirement to expand on existing provisions of 2 CFR 200.317 through 200.326 and 24 CFR 570.489(g) as follows: (1) Grantees are also required to ensure all contracts and agreements (with subrecipients, recipients, and contractors) clearly state the period of performance or date of completion. (2) Grantees must incorporate performance requirements and penalties into each procured contract or agreement. Contracts that describe work performed by general management consulting services need not adhere to this requirement. (3) Grantees may contract for administrative support but may not delegate or contract to any other party any inherently governmental responsibilities related to management of the funds, such as oversight, policy development, and financial management. HUD will respond to grantee requests for technical assistance on contracting and procurement processes.

e. ***Public website.*** HUD is requiring grantees to maintain a public website that provides information accounting for how all grant funds are used and managed/administered, including links to all action plans, action plan amendments, performance reports, citizen participation requirements, and activity/program information for activities described in the action plan, **including details of all contracts and ongoing procurement policies.** To meet this requirement,
each grantee must make the following items available on its website: (1) the action plan (including all amendments); each QPR (as created using the DRGR system); (2) **procurement policies and procedures;** (3) executed CDBG-DR contracts; and (4) status of services or goods currently being procured by the grantee (e.g., phase of the **procurement**, requirements for proposals, etc.) a copy of contracts the grantee has procured directly; and a summary of all procured contracts, including those procured by the grantee, recipients, or subrecipients. Grantees should post only those contracts subject to 24 CFR 85.36 or in accordance with the State's procurement policies. To assist grantees in preparing this summary, HUD has developed a template. The template can be accessed at:
https://www.onecpd.info/cdbe:-dr/.
Grantees are required to use this template, and attach an updated version to the DRGR system each quarter as part of their QPR submissions. Updated summaries must also be posted quarterly on each grantee's website.

Each grantee must submit Risk Analysis Documentation to demonstrate in advance of signing a grant agreement that it has in place proficient controls, procedures, and management capacity. This includes demonstrating financial controls, **procurement processes**, and adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act.[**see COC's page 12 of this document titled Segregation of Duties]**

SC Severe Storms & Flooding 2015 – DR 4241

(Form No. to be assigned by Purchasing)

*****SAMPLE ONLY*****

JUSTIFICATION FOR
EMERGENCY PROCUREMENT

Based upon the following determination, the proposed procurement action described below is being procured pursuant to the authority of Section 1.17 of the City of Columbia Procurement Regulation, the 1976 South Carolina Code of Laws as amended and 2 C.F.R. §200.320, as applicable.

This governmental body proposes to procure _____
(1)
_____

_____

as an emergency procurement from _____
(2)
_____

_____

The basis for this emergency determination and the reason no other vendor is suitable is:

_____
(3)
_____

_____

_____

_____	_____	_____
Date	Department Head	Date
	_____	_____
	Assistant City Manager	Date
	_____	_____
	Purchasing Agent	Date
	_____	_____
	CFO or Authorized Designee	Date

Notes: (1) Enter description of goods or services to be procured.
(2) Enter name of emergency contractor.
(3) Enter the determination and basis for emergency procurement.

Rev._____ - COC Emergency Procurement Form **CDBG-DR (HUD)**

DR ____

SC Severe Storms & Flooding 2015 – DR

No._____

(Form No. to be assigned by Purchasing)

SAMPLE ONLY

JUSTIFICATION FOR
EMERGENCY PROCUREMENT
PAGE TWO

Note: In accordance with 2 C.F.R. §200.320 (f) (2) – several exemptions may be allowed during an emergency but we must solicit from as many potential sources as practicable under the circumstances. The duration for the contract is limited to take care of the "emergency" only and we must properly solicit for long-term needs.

The following two lists are provided as a guide to assist you with your Emergency Procurement

needs: Pre-contracting Considerations:

- 'V Determine the City's immediate need. Is the description or scope of services sufficient enough to reflect only the City's emergency needs and only for the duration of the "actual" emergency?
- 'V Validate that you received as much competition as was practical to satisfy the Emergency. Ensure that the price is fair and reasonable by soliciting as many quotes as possible.
- 'V Verify that there was not an open Emergency Procurement Schedule (Federal, state, etc.) available to obtain the needed items or services.
- 'V Is funding available and approved prior to authorizing the work to commence?
- 'V Is this procurement being completed by an authorized COC representative without any conflict of interests?

Post Contracting Considerations:

- 'V Did the City representative first check to see if there were existing Emergency contracts, approved cooperative or interagency agreements available prior to using this form?
- 'V Was funding adequately identified prior to authorizing work?
- 'V Was the competition maximized to the fullest extent possible to handle the emergency?
- 'V Were CORs/COTRs appointed to oversee performance?
- 'V Did the COR/COTR document performance?
- 'V Did the contractor deliver the amount the government ordered?
- 'V Did the contractor deliver the right items to the appropriate location?
- 'V Were the performance requirements met? If not, were adjustments made appropriately to the contract and invoice(s) or revised invoices submitted?
- 'V Did we adjust the quantity, price or delivery terms, if needed?
- 'V Did someone with the appropriate authority accept the goods or services?
- 'V Were invoices reviewed to ensure accuracy and conformance to the contract?
- 'V Was the complete file documented adequately?
- 'V Were process improvements identified and recorded for future reference?
- 'V Post documentation has been completed for all verbal quotes for simplified (non-sealed bid) purchases. This information must be provided as soon as possible to include the name of company submitting quote, title/representative, cost and total scope of services or purchase or goods. The COC staff member's contact info should also be included in case we have further questions.

Ensure that proper documentation is attached prior to forwarding the final form to Purchasing.

COR- Contracting Officer Representative **COTR- Contracting Officer Technical Representative**

Rev._____ - COC Emergency Procurement Form **CDBG-DR (HUD) DR**

(The City of Columbia, a non-Federal entity, will comply with the following Conflict of Interest Guidelines in accordance with 2 CFR 200.318)

Attention City Officials: Further information will be released to City Staff next week to further comply with the Conflict of Interest Policy below. You are encouraged to review and required to adhere to this provision and forms will be released shortly to be completed by the appropriate staff members.

Conflict of Interest Policy

The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts as required in 2 CFR Section 200.318. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

If the non-Federal entity has a parent, affiliate, or subsidiary organization (that is not a State, federally-recognized tribe, or local government), then the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest occur when the non-Federal entity is unable, or appears to be unable, to be impartial in conducting a procurement action involving a related organization because of relationships with a parent company, affiliate, or subsidiary organization.

To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft design plans and specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements as required in 2 CFR Section 200.319(a).

Ethics & Gifts:

Vendor is subject to the provisions of the 1991 Ethics Reform Act (8-13-100, et seq, South Carolina Code of Laws, 1976, as amended). Under this Act, City employees are prohibited from accepting anything of value from any person. “Anything of value” includes, but is not limited to, lodging, transportation, entertainment, food, meals, beverages, money, gifts, honorariums, discounts and interest-free loans.

Who to call for Disaster Recovery Procurement Assistance relating to CDBG funding:

General Inquiries – (803) 545-3470:

Sandra A. Wright, Director/Purchasing Agent

LaWana Robinson-Lee, CPPO (803)545-3469
Procurement Manager for Goods and
Non-professional services

Shannon Lizewski, CPPO (803) 545-3237
Procurement Manager, Professional Services

Elizabeth Marsh, Junior Buyer (803)545-3472

Cindy Bailey (803)545-3476
Contracts Specialist for Federal
Procurements

Eric Cassell, Special Projects
Administrator (803)545-3369

Vacant Positions with some CDBG related duties (see next page):

Deputy Director of Procurement & Contracts

Procurement Manager (Construction)

Contracts Administrator

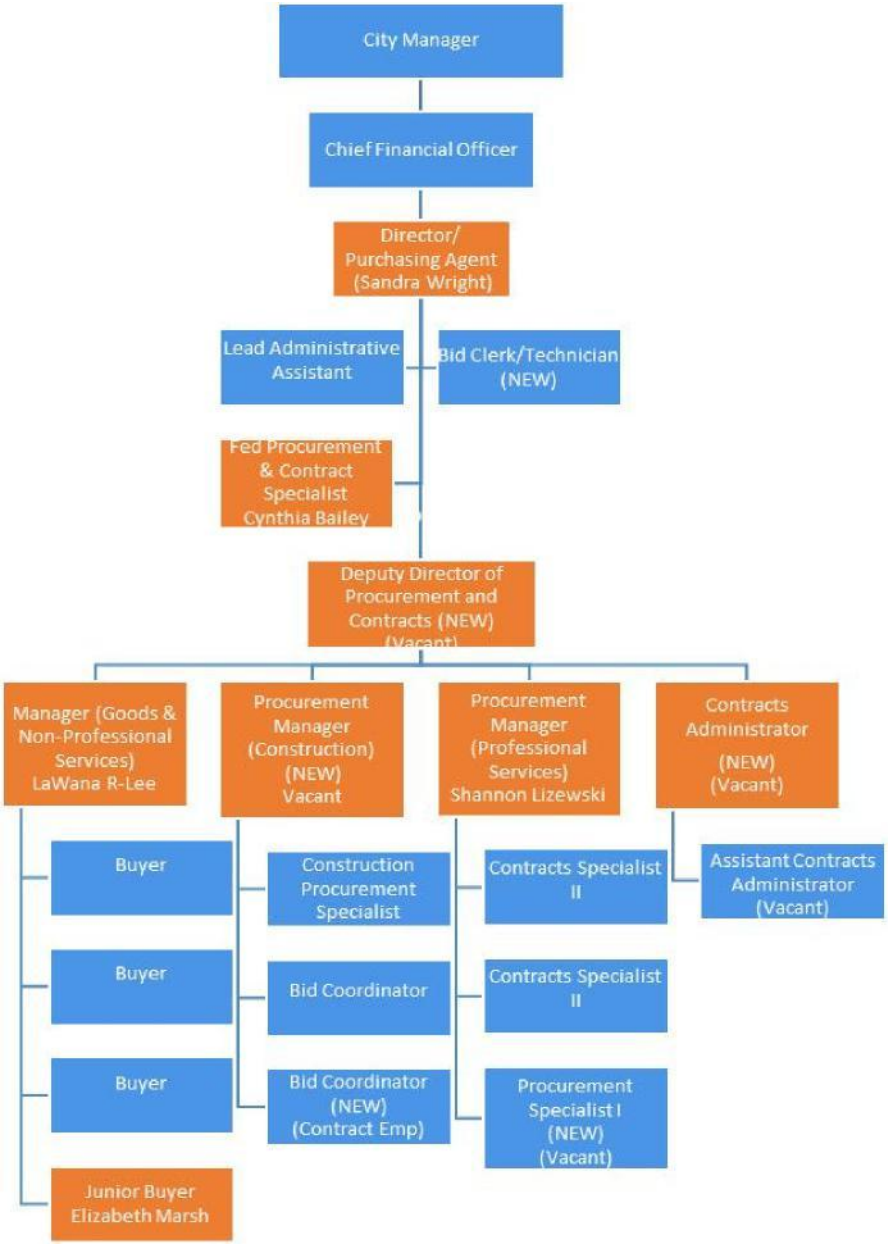


Figure 1 City of Columbia Department of Procurement & Contracts. Orange boxes denote positions or staff members assigned to work on some CDBG-DR related projects as they are released in the future.

Segregation of Duties
City of Columbia Purchasing Division

Segregation of duties is a vital and critical measure used for effective internal controls in citywide procurement and contracting operations and to further ensure the integrity of the business process. These measures are in place to further reduce the risk of both erroneous and inappropriate actions, deter fraud and fraudulent act. Segregation of duties is a deterrent to fraud and fraudulent acts. A person with multiple functional roles has a greater opportunity to abuse their powers within an organization. Some general categories of separate functions at the city of Columbia include, but may not be limited to, the clear separation of purchasing and finance roles. This also includes a separation of receiving (custody) of assets and recording, payments, monitoring and reviewer approval roles.
Some specific examples of segregation of duties are as follows:

- The person who requisitions the purchase of goods or services should not be the person who creates the purchase order or approves the purchase.
- The person who approves the purchase of goods or services should not be the person who processes the invoices for payment.
- The person receiving on an invoice should not be the same individual creating the Purchase Order.
- The person who approves the purchase of goods or services should not be able to obtain custody of checks to the recipient.
- The person who opens the mail should not be the person handling fixed assets, invoicing, checks, etc.

Risk Analysis & Planning: Management is ultimately responsible for oversight, monitoring and review of the internal process. By performing periodic assessments and reviews, this will also reduce risks to the organization.

A matrix to accompany this "Separation of Duties" checklist will be placed in the federal procurement guides (FEMA & CDBG).

THE FOLLOWING PAGES ARE PROVIDED TO ASSIST STAFF MEMBERS WITH DIRECT PURCHASING AUTHORITY AND SHOULD BE USED AS A GENERAL CHECKLIST FOR PROCURING GOODS & SERVICES WITH A POTENTIAL VALUE OVER THE SIMPLIFIED ACQUISITION THRESHOLD LIMITS (>$25,000).

Procurement Checklist for Purchasing, Contracts Office & Construction Contracting Officials

Project Title:		
CDBG-DR (HUD) Project Worksheet (PW) Number:		
Physical Location and/or GPS Coordinates*:		
Check one: Emergency Work ☐ Permanent Work ☐		
Project Description:		
Document your file and be prepared to validate that you have completed the following:		
SOLICITATION		
	Is the solicitation (competitive invitation to bid (IFB), request for proposal (RFP) or Request for Qualification (RFQ) included in the file?	2 *Code of Federal Regulations* (CFR) 200.320(c)(d)(f); 44 CFR 13.36 (c)(3)(i)(ii)
	Were prospective respondents allowed a reasonable of time to respond? If so, how many days?	44 CFR 13.36(d)(2)(ii)(A)
	Does the solicitation contain a clear and accurate description of the technical requirements for the material, product or services, scope of work (SOW)?	2 CFR 200.319(c)(1-3); 44 CFR 13.36(c) (3)(i)
	Specifications may not contain features that unduly restrict competition	2 CFR 200.319(c)(1-3); 44 CFR 13.36(c)(3)(i)
	Are there unreasonable requirements or unnecessary experience or excessive bonding requirements?	2 CFR 200.319(a)(2)44 CFR 13.36(c)(1)(i-ii)
	Are there any "brand name" products specified without also listing "or equal"?	2 CFR 200.319(a)(6);(44 CFR 13.36(c)(3)(1)
	Does the solicitation file evidence the following:	
	Positive efforts in hiring small-business enterprises to the extent practical?	2 CFR 200.321 (a); 44 CFR 13.36(e)
	Positive efforts in hiring minority-owned business enterprises to the extent practical?	2 CFR 200.321 (a); 44 CFR 13.36(e)
	Positive efforts in hiring women-owned business enterprises to the extent practical?	2 CFR 200.321 (a); 44 CFR 13.36(e)
	Positive efforts in the utilization of labor surplus firms?	2 CFR 200.321 (a); 44 CFR 13.36(e)
	Is the advertisement (city website, Bid Online, SCBO or the State Paper) included in the file? At least two outlets should be used.	44 CFR 13.36(d)(2) et seq.
	Is a record of respondents that were rejected as not responsible/responsive and rejection reasoning included in the file?	2 CFR 200.318(i); 44 CFR 13.36(b)(8)(9)
	Are there an adequate number of responses documented in the file (two or more for large purchases and three or more for small purchases)? Keep records of responses in your file.	2 CFR 200 (c)(1)(ii) 44 CFR 13.36(d)(2) (i)(B) and (d)(3); 44 CFR 13.36(d)(3) (ii); Disaster

		Assistance Policy (DAP) 9580.212
	Are copies of all proposals, to include methodology of evaluation and selection process (e.g. bid summary, tabulation sheet, scoring sheet, cost analysis if needed) included in the file?	2 CFR 200.320(d)(1); 44 CFR 13.36(d)(3)
	Are there any potential conflicts of interest?	2 CFR 200.318 (c); 44 CFR 13.36(b)(3)
WHAT IS THE PROCUREMENT METHOD?		
	Procurement by micro-purchase <$3,500 (or <$2,000 of acquisitions for construction subject to the Davis Bacon Act)	2 CFR 200.320(a)
	Procurement by small purchases $3, 500.01- *$25,000.00	COC Appendix G
	Procurement by sealed bids (preferred method for construction contracts). Contract awarded to the lowest responsive, responsible bidder with a firm-fixed price contract (lump sum or unit price)	2 CFR 200.320 (c);44 CFR 13.36(d)(2)(ii)(D)
	Procurement by competitive proposal	2 CFR 200.320 (d); 44 CFR 13.36(d)(3)
	• If solicitation was for other than "A/E" professional services, was price included as a selection criterion?	2 CFR 200.320 (d); 44 CFR 13.36(d)(3)
	• If solicitation was for A/E services, is a cost analysis included in your file (see COST ANALYSIS REQUIRED)?	2 CFR 200.320 (d);44 CFR 13.36(d)(3)(v)
	• Does the solicitation clearly outline the scoring criteria and associated weights used for selection?	2 CFR 200.320 (d)(1)(5); 44 CFR 13.36(d)(3)(i); 44 CFR 13.36(c)(3)(ii)
	Procurement by noncompetitive proposals	2 CFR 200.320(f); 44 CFR 13.36(d)(4)
	Is there a justification for the use of this method of procurement included in the file? Is the price fair and reasonable and documented in the file?	2 CFR 200.320(f); 44 CFR 13.36(d)(4)(i)-(iii)
	Are intergovernmental agreements and Federal surplus property (if applicable) included in the file?	2 CFR 200.318(e); 44 CFR 13.36(b)(5-6)
COST ANALYSIS REQUIRED		
	Was A/E or other professional services procured?	2 CFR 200.323 (b); 44 CFR 13.36(f)
	Is the contract a noncompetitive proposal?	2 CFR 200.323(b); 44 CFR 13.36(d)(4)(ii) and (f)
	Does the contract contain modifications and/or change orders?	2 CFR 200.323(a); 44 CFR 13.36(f)
	Competitively procured contracts (small and large); Documentation demonstrating competitive procurement serves as a cost analysis	2 CFR 200.323(a); 44 CFR 13.36(f)
BONDING REQUIREMENTS		
	Is this a construction or facilities improvement contract that exceeds $25,000.00? If so:	2 CFR 200.325; 44 CFR 13.36(h)
	• Did the bid response include a 5% bid bond?	2 CFR 200.325(a); 44 CFR 13.36(h)(1); LRS 38:2218
	• Did the award contractor execute a performance bond for 100% of the contract?	2 CFR 200.325(b); 44 CFR 13.36(h)(2); LRS 38:2219

	• Did the award contractor execute a payment bond for the 100% of the contract?	2 CFR 200.325(c); 44 CFR 13.36(h)(3); LRS 38:2219

REQUIRED CONTRACT PROVISIONS		
	Does the contract (>*$25,000) contain a provision for administrative and legal remedies for violation or breach of contract?	Appendix II to Part 200(A)- Contract Provisions
	Does the contract (>$10,000) contain a provision for termination of contract for cause or convenience?	Appendix II to Part 200(B)- Contract Provisions
	Does the contract (>$10,000) contain a provision to comply with Executive Order (EO) 11246, Equal Employment Opportunity (EEO)?	Appendix II to Part 200(C)- Contract Provisions
	Does the contract (applies to all construction or repair contracts or subcontracts) contain a provision to comply with the Copeland Anti-Kickback Act?	Appendix II to Part 200(D)- Contract Provisions
	Compliance with Davis Bacon Act: Construction contracts in excess of $2,000 by non-Federal entity must include this provision.	Appendix II to Part 200(D)- Contract Provisions
	Is the contract (>*$25,000) required to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701- 3708)?	Appendix II to Part 200(E)- Contract Provisions
	Does the contract (applies to contract, subcontracts and grants >$25,000) contain a provision to comply with the Clean Air Act (42 U.S.C 7401-7971q) and the Federal Water Pollution Control Act as amended (33 U.S.C 1251-1387)?	Appendix II to Part 200(G)- Contract Provisions
	Does the contract contain a provision stating record retention and access requirements to all records? All records, supporting documents and all material pertinent to the award must be retained at least three years.	2 CFR 200.333; 44 CFR 13.42
TYPES OF CONTRACT FOR REIMBURSEMENT		
	Lump Sum	2 CFR 214.44 (c); Public Assistance Guide-FEMA 322/June 2007, pages 52-53
	Unit Price	2 CFR 214.44 (c); Public Assistance Guide-FEMA 322/June 2007, pages 52-53
	Cost Plus Fixed Fee	2 CFR 200.323(b); Public Assistance Guide-FEMA 322/June 2007, pages 52-53
	Time and Materials Contracts **(Not recommended)**: Does it meet all the requirements?	2 CFR 200.318 (j)
PROHIBITED CONTRACTS		
	Cost Plus a Percentage of Cost	2 CFR 200.323(d); 44 CFR 13.36 (f)(4)
	Percentage of Construction Cost	2 CFR 200.323(d); 44 CFR 13.36 (f)(4)
	Piggyback	DOLR, Version 2.0 pages 5-128: Public Assistance Policy Digest- FEMA 321/Jan. 2008, page 23

*****SPECIAL NOTE - PLEASE READ & COMPLY*****

Physical locations and/or GPS Coordinates must be properly identified and placed ON THIS FORM to reflect the actual location of the repair or replaced item or service.

Purpose

This PROCUREMENT CHECKLIST is a companion job aid and it is designed to assist COC procurement officers responsible for performing procurements in accordance with City, State and Federal guidelines and ultimately assuring that contracts comply with CDBG-DR (HUD) reimbursement standards.

Overview

This checklist addresses the requirements for CDBG-DR (HUD) grants as stated in 2 CFR Part 200 and 44 CFR Part 13.

Notes

COC/CDBG-DR (HUD)/NIGP Procurement & Contracting Terms

SC Severe Storms & Flooding CDBG-DR

(For Internal Use Only
Reference Tool for COC Procurement & Management Staff)

Acquisition:

1. As defined under FAR 2.101: Acquiring by contract, with appropriated funds, supplies or services (including construction) by and for the use of the Federal Government, through purchase or lease, whether the supplies or services already exist or must be created, developed, demonstrated, and evaluated.

2. The process of obtaining supplies, services, or construction through purchase, lease, or grants.

Best Value: An assessment of the return which can be achieved based on the total life cycle cost of the item; may include an analysis of the functionality of the item; can use cost/benefit analysis to define the best combinations of quality, services, time, and cost considerations over the useful life of the acquired item.

A procurement method that emphasizes value over price. The best value might not be the lowest cost. This method is generally achieved through the negotiated Request for Proposal (RFP) method.

Bid sample: A sample to be furnished by a bidder to show the characteristics of a product offered in a bid. Bid samples are used only to determine the responsiveness of the bid. (Nash, Schooner, O'Brien, 1998) - NIGP

CDBG - Community Development Block Grant

Certified cost or pricing data: Contractor certification that to the best of the contractor's knowledge and belief, the cost or pricing data submitted was accurate, complete and current as of a mutually determined date prior to the date of the pricing of any contract, change order, or modification.

Competitive proposals: a method similar to sealed bid procurement in which contracts are awarded on the basis of contractor qualifications instead of on price. This method is often used for procuring architectural or engineering professional services. In addition, this method normally involves more than one source submitting an offer and is used when conditions are not appropriate for sealed bids.

Competition: All procurement transactions will be conducted in such a manner providing for full and open competition consistent with the standards set forth at 24 CFR 85.36

Conflict of Interest: A clash between the public interest and the private pecuniary interest of the individual concerned. (Blacks Law Dictionary, 299, 1990). The term identifies those situations where contractors or public officials may obtain a benefit from a public contract. Conflicts of Interest may result in a breach of ethics or an ethical code. Actual or Perceived Conflict of Interest: Any action, decision or recommendation by an agent or public official acting in an official capacity, the effect of which could be to the private pecuniary benefit or detriment of the person or person's relative.

Contract:

1. A contract is an obligation, such as an accepted offer, between competent parties upon a legal consideration, to do or abstain from doing some act. The essentials elements of a contract are: an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent; legality of purpose; and definiteness.
2. A legally binding promise, enforceable by law.
3. An agreement between parties with binding legal and moral force, usually exchanging goods or services for money or other considerations.

Contracts (Four types of contracts allowed for FEMA reimbursement):

1) **Lump sum contracts:** contracts for work within a prescribed boundary with a clearly defined scope and a total price
2) **Unit price contracts**, for work done on an item-by-item basis with cost determined per unit
3) **Cost-plus-fixed-fee** contracts, either lump sum or unit price contracts with a fixed contractor fee added into the price
4) **Time-and-materials** contracts, where the contractor bills the applicant for labor, equipment, materials, and overhead. These contracts should be avoided, but may be allowed for work that is necessary immediately after the disaster has occurred when a clear scope of work cannot be developed. Time-and-materials contracts are allowed in circumstances when they are more cost-effective and appropriate for the amount and type of eligible work to be performed. The costs must be reasonable for the type of work required. Applicants must engage in comprehensive active monitoring activities to ensure contractor efficiency.

   If a time-and-materials contract is awarded, the applicants must:

   - Monitor and document contractor expenses;
   - Have a cost ceiling or "not to exceed" provision in the contract; and
   - Contact the State to ensure proper guidelines are followed.

Contracts (Types of contracts allowed for CDBG-DR (HUD) reimbursement):

1) **Firm Fixed Price (See IFB definition)**
2) **Fixed Price (Competitive Negotiation)** a firm price reached after competitive negotiations
3) **Cost Reimbursement (Competition Negotiation)**
4) **Time-and-materials or labor hours:** These contracts should be avoided, but may be allowed for work that is necessary when a clear scope of work cannot be developed and no other contract type is suitable under the circumstances. The costs must be reasonable for the type of work required. Applicants must engage in comprehensive active monitoring activities to ensure contractor efficiency; have a cost ceiling or not-to-exceed amount provision in the contract and the contractor exceeds it at his own risk. These types of contracts will be permitted on a limited basis.

Contract Administration: Following the award of a contract, the management actions that must be taken to assure full compliance with all of the terms and conditions contained within the contract document, including price. Action steps that assure that the contractor is in full compliance with the entire contract. Contract administration activities include payment, monitoring of progress, inspection and acceptance, quality assurance, monitoring and surveillance, modifications, negotiations, contract closeout, and other activities. Also see Contract Management.

Contract Management: The overarching process that a governmental agency will use to ensure that the contractor has performed in accordance with the performance standards contained within the statement of work (SOW) or the Performance Work Statement (PWS). A quality assurance plan contained within the contract may include: 100% Inspection, Random Sampling, Periodic Inspection, Customer Input, as well as other methodologies. May also be referred to as Surveillance. Also see Contract Administration and Surveillance.

Contract Modification: Any written alteration in specifications, delivery point, frequency of delivery, period of performance, price, quantity, or other provisions of the contract, accomplished by mutual agreement of the parties to the contract. Also see Amendment, Authorized Deviation, Change Order and Contract Amendment.

Contractor: Any individual or business having a contract with a governmental body to furnish goods, services, or construction for an agreed-upon price.

Contracting Officer (CO): A person with the authority to enter into, administer, and/or terminate contracts, and make related determinations and findings.

Contracting Officer's Representative (COR): An authorized representative for the Contracting Officer.

Contract Renewal: A renewal clause allows an agreement to continue for a defined period if the existing agreement isn't renegotiated within a specified time measured from the expiration of the current contract. The term of renewal depends on the specific contract language, but such clauses generally provide that the contract shall be automatically renewed for the same period (or some lesser term) unless either party, at some stipulated and predetermined time (i.e., 60 days before expiration), gives notice to the other of its desire to end the agreement.

Cost Analysis – The process of verifying proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits to verify cost reasonableness.
Cost analysis is not only required on the basic non-competitive award but also on amendments or modifications of the proposed agreement. The City will negotiate profit as a separate element of the price if no price competition exists.

Cost Estimating Format (CEF): A forward pricing methodology for estimating the total cost of repair for large permanent projects by use of construction industry standards. The format uses a base cost estimate and design and construction contingency factors, applied as a percentage of the base cost. (FEMA.gov)

Davis-Bacon Act: A Federal Law (1931) which requires contractors who perform public works construction projects that are federally funded to pay their workers the prevailing wage rate paid in the area for similar work, as set by the Secretary of Labor.

Day – means, unless otherwise specified, a calendar
day.

Declaration: The President's decision that a major disaster qualifies for federal assistance under the Stafford Act. - (FEMA.gov)

Debarment –To prohibit a seller/contractor from bidding on future requirements for cause for a certain period of time. A sanction brought against a seller whereby they may not engage in future procurement actions. To exclude or shut out of future solicitations and contracting opportunities. Also see Suspension.

Debris Removal: Must be generated by a Presidentially declared disaster; located within the designated disaster area; be the legal responsibility of an eligible applicant to remove; and present an immediate threat to life, improved property, or public health and safety (44 CFR §206.223 and §206.224).

Default: The omission or failure to perform a legal or contractual duty, to observe a promise or discharge an obligation, or to perform an agreement. (Black's Law Dictionary, 417, 1990) Failure to make scheduled payments of interest or principal on a loan, bond, or other types of debt.

Defect: The absence of something that is necessary for completeness or perfection, or a deficiency in something essential to a thing's intended or proper use. A product is defective if it is not fit for the ordinary purposes for which it is sold and used. Defects are generally of two types, latent (not apparent to the buyer by reasonable observation) and patent (a defect that is apparent on normal inspection). Also see Latent Defect. (Black's Law Dictionary, 1126, 1990)

Delegation of Authority: The conferring of authority by someone who has it, to another person, in order to accomplish a task.

Deliverable: The completion of a milestone or the accomplishment of a task. Used to measure successful performance. Also see Milestones. (Harney, 1992)

Delivery: The physical transfer of possession from one person to another, as from a carrier, vendor, or contractor to the purchaser. Also see various *Free on Board (F.O.B.)* descriptions.

Delivery Date: A single date, phased date and/or date of a contract.

Delivery Order Contract: An indefinite delivery/indefinite quantity contract for supplies or services that provides for the issuance of orders for services or supplies during the contract period. They may also be referred to as a task order contract.

Delivery Terms: Conditions in a contract regarding freight charges, place and time of delivery, or method of transportation. Also see various Free on Board (F.O.B.) definitions.

Drug-free workplace: The site(s) for the performance of work done by the contractor/grantee in connection with a specific contract/grant at which employees of the contractor/grantee are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of any controlled substance. (U.S. Department of Labor)

Economically Disadvantages Individuals: Socially disadvantaged individuals whose ability to compete in the free enterprise system is impaired due to diminished opportunities to obtain capital and credit as compared with others in the same line of business that are not socially disadvantaged.

Electronic Commerce (e-Commerce): The integration of electronic data interchange, electronic funds transfer, and similar techniques into a comprehensive electronic-based system of procurement functions; could include the posting of IFB's and RFP's on electronic bulletin boards, the receipt of bids via electronic data interchange, notification of award by email, and payment via electronic funds transfer. Also referred to as Electronic Sourcing (e -Sourcing).

Emergency Protective Measures (Category B): actions before, during, and after a disaster to eliminate or reduce an immediate threat to life, public health or safety or significant damage to improved public or private property.

Emergency Work: That work which must be done immediately to save lives and to protect improved property, public health and safety, or to avert or lessen the threat of a major disaster. Emergency work frequently includes clearance and removal of debris and temporary restoration of essential public facilities and services. Emergency work and permanent work may be combined into one project only when the emergency work is incidental to the permanent work. If the combination is appropriate, the emergency work needs to be evaluated separately from the permanent work to meet varying eligibility requirements (e.g., force account regular time is eligible for only permanent work).
(Category A-B) – (FEMA.gov)

Facility: Any publicly or privately owned building, works, system, or equipment, built or manufactured, or an improved and maintained natural feature. Land used for agricultural purposes is not a facility. The eligible facility must be located in the designated disaster area and must be the legal responsibility of an eligible applicant. - (FEMA.gov)

Fair and Reasonable Price: A price that is fair to both contracting parties, considering the agreed upon

conditions, promised quality, and timeliness of contract performance. Purchasing officials may use a variety of techniques to assure a fair and reasonable price, such as, sealed competitive bidding, competitive proposals, price and cost analysis, and benchmarking to other contracts.

Fair Market Value: The price for an item upon which purchaser and vendor agree in an open market when both are fully acquainted with market conditions.

FAR (Federal Acquisition Regulations): The primary document in the Federal Acquisition Regulations System, containing uniform policies and procedures that govern the acquisition activity of all federal agencies. The FAR is prepared, issued and maintained jointly by the Secretary of Defense, the Administrator of General Services and the NASA Administrator. (Nash, Schooner, O'Brien, 1998).

Federal Register: A daily publication available from the Government Printing Office, that lists and discusses the regulations of federal agencies, makes the regulations available for public comment before they are made final, and publishes all final rules and regulations. (www.gpoaccess.gov/fr)

Fee: A sum of money paid for some service.

1. A charge or payment, usually for professional or technical services.

FEMA: Federal Emergency Management Agency

Fixed-Price Contract: A contract providing for a firm price, or a price that may be adjusted only in accordance with contract clauses providing for revisions of the contract price under stated circumstances. The City will include a requirements in all agreements or contracts in which price adjustment may be necessary within the general scope of the contract

Force Account: An applicant's own labor forces and equipment. (FEMA.gov)

Free On Board Destination: Title changes hands from the supplier to the public entity at the destination of the shipment when the public entity signs for the goods; the supplier owns the goods in transit, assumes responsibility for carrier selection, and files any claims for damages incurred during this period. It does not address the responsibility for the cost of transportation (freight charges) which must be specified with the inclusion of additional language. See further definitions below which must state who is responsible for freight charges.

Free on Board (F.O.B.) Destination, Freight Collect: Title passes at destination and buyer pays the freight.

Free on Board (F.O.B.) Destination, Freight Collect and Allowed: Title passes at destination and buyer pays the freight and deducts it from the seller's invoice.

Free on Board (F.O.B.) Destination, Freight Prepaid and Added: Title to the goods passes from the supplier to the agency at the point of destination and supplier pays the freight expense and then adds the freight expense to the agency's invoice. Supplier owns goods in transit and files claims, if any.

Free on Board (F.O.B.) Destination, Freight Prepaid and Allowed: Title passes at destination and seller pays the freight.

Free on Board (F.O.B.) Origin: Title changes hands from the supplier to the public entity at the origin of the shipment. In this scenario, the public entity owns the goods in transit, assumes responsibility for carrier selection, and files any claims for damages incurred during this period. It does not address the responsibility for the cost of transportation (freight charges) which must be specified with the inclusion of additional language. See further definitions below which must state who is responsible for freight charges.

Free on Board (F.O.B.) Origin, Freight Collect: Title passes at origin, and the buyer pays the freight.

Free on Board (F.O.B.) Origin, Freight Prepaid and Added: Title passes at origin, and seller pays the freight and then collects the charges from the purchaser by adding them to the invoice.

Free on Board (F.O.B.) Origin, Freight Prepaid and Allowed: Title to the goods passes from the supplier to the agency at point of origin and supplier pays and bears the freight expense. Agency owns goods in transit and files claims, if any.

Free on Board (F.O.B.) Origin, Freight Prepaid and Charged Back: Title passes at origin; seller pays the freight and adds it on to the seller's invoice.

1. Freight: Supplies, goods, and transportable property being moved between locations.
2. Compensation paid for the transportation of goods or for the use of a carrier.

Full and open competition: The process by which two or more vendors attempt to secure the business of a third party by offering the most favorable price, quality, delivery terms, or service. The concept of competition presumes the existence of a marketplace in which there is more than one vendor supplying similar goods and/or services.

Full Warranty: A warranty as to full performance covering both labor and material; the warrantor must remedy the product within a reasonable time and without charge after notice of a defect or malfunction.
Hazard Mitigation: Any cost-effective measure that will reduce the potential for damage to a facility from a disaster event. - (FEMA.gov)

HUD: Housing and Urban Development

Invitation for Bid (IFB): All documents used to solicit competitive or multi-step sealed bids. *Also known as Invitation To Bid (ITB).*

Labor surplus area (LSA): An area designated by the Secretary of Labor as having concentrated unemployment or underemployment in comparison with other areas. Used as one of the criteria for designating economically disadvantaged vendors/suppliers.

Latent defect: A defect, deficiency or imperfection that is not detected or discovered using generally accepted inspection methods. A defect that surfaces after final acceptance. It is not concealed damage. Also see Defect. (NASPO, 2001)

Major Disaster: As defined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), a major disaster is any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, tribes, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

"May": Denotes the permissive in a contract clause or specification. Also see *"Shall".*

Micro-purchase: Means an acquisition of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold.

Micro-purchase threshold: $3,500 with the exception of construction contracts which is
$2000. **MBE**: Minority Business Enterprise. See Economically Disadvantaged Individuals

Noncompetitive proposals: A method whereby a proposal is received from only o n e source. Noncompetitive proposals should only be used when the award of a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals, and one of the following circumstances applies:

- The item is available only from a single source
- There is an emergency requirement that does not permit a delay
- Solicitation from a number of sources has been attempted, and competition is determined to be inadequate

Offer: A response to a solicitation that, if accepted, would bind the offeror to perform the resulting contract.

Offeror: The person/entity who submits a proposal in response to an Invitation for Bid (IFB), Request for Proposals (RFP), Request for Qualifications (RFQ) or Request for Quotation (RFQu). One who makes an offer in response to a solicitation. Also see Bidder.

OMB - The United States Office of Management and Budget

Open-End Contract: A contract which sets forth the general provisions of supplies and services that may be delivered or performed within a given period of time, but in which quantity and/or duration is not specified. The quantity and delivery are specified with the placement of orders.

Option to Extend: In accordance with contract terms, an option that allows a continuance of the contract for an additional period of time. Also see option to renew.

Option to Renew: A contract provision that allows a party to reinstate the contract for an additional term, beyond that stated in the original contract, in accordance with contract terms. Also see option to extend.

Order: An instruction issued to a vendor for goods to be delivered to a given place at a given price.

Performance: The technical, operational, and quality characteristics of the end item.

Performance Based Contract: A results-oriented contracting method that focuses on the outputs, quality, or outcomes that may tie at least a portion of a contractor's payment, contract extensions, or contract renewals to the achievement of specific, measurable performance standards and requirements. These contracts may include monetary and non-monetary incentives as well as specific remedies.

Performance Bond: An instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder's inability to complete the contract as agreed. A risk mechanism that secures the fulfillment of all contract requirements. May be referred to as a Completion Bond.

Piggyback Contracts: Contracts with disaster-related work performed by another jurisdiction's contractor with the city piggybacking off the same contract terms and conditions – FEMA does not favor "piggyback contracts" (FEMA.gov). *The City will most likely establish our own contracts with vendors/contractors or use pre-approved and properly executed state or federal contracts (SAW).*

Piggyback (Piggyback Cooperatives): A form of intergovernmental cooperative purchasing in which an entity will be extended the pricing and terms of a contract entered into by a larger entity. Generally a larger entity will competitively award a contract that will include language allowing for other entities to utilize the contract which may be to their advantage in terms of pricing, thereby gaining economies of scale that they normally would not receive if they competed on their own. Example: A smaller government agency has the ability to use its state issued contract to obtain goods and services which is also known as Riding a Contract.

Permanent Work: That work that must be performed through repairs or replacement to restore an eligible facility on

Pre-Bid/ Pre-Proposal Conference(Meeting): A meeting held by the buyer with potential bidders/offerors, prior to the opening of the solicitation for the purpose of answering questions, clarifying any ambiguities and responding to general issues in order to establish a common basis for understanding all of the requirements of the solicitation. This may result in the issuance of an addendum to all potential providers. In certain situations, a mandatory conference may be advisable. Also see Bidders Conference and Pre-solicitation Conference.

Pre-solicitation Conference: An informal, typically non-mandatory, meeting inviting comments and suggestions from a representative group of vendors on the draft of a proposed solicitation; this conference provides useful market analysis information to the Buyer; usually used for solicitations involving high technology or complex services. Also see Bidders Conference, Pre-bid/Pre-Proposal conference, Request for Comments (RFC) and Request for Information (RFI).

Price:

1. A value placed on an object or service provided by a seller to a buyer.
2. The money value of a unit of a good, service, or resource.
3. The total amount, in money or other consideration, to be paid or charged for a commodity or service; normally includes all costs (direct labor, overhead, materials) and profit or fee.

Price Adjustment Clause: A clause in a contract allowing for adjustment in price in accordance with circumstances arising during the term of the contract. A provision **that must** be included in contracts requiring contractor certification of cost and pricing data stating that price, including profit or fee, shall be adjusted to exclude any significant sums by which the jurisdiction finds the price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete, or not current.

Price Agreement: A contractual agreement in which a purchaser contracts with a vendor to provide the purchaser's requirements at a predetermined price. Also see Blanket order, Open end contract, and Requirements contract.

Price Analysis: The process of examining and evaluating a prospective price without performing cost analysis; that is, without evaluating the separate cost elements and profit of the offeror included in that price. The end result of price analysis is to ensure fair and reasonable pricing of a product or service. Price analysis may include a variety of techniques such as comparing proposed prices with prices of same or similar items obtained through market research. (Nash, Schooner, O'Brien, 1998).

Price At Time of Delivery: A term used in sales contracts when market prices are so volatile that the vendor will not give a firm price or use an escalator clause, but will only agree to charge the same price to all customers for similar purchases on the day of shipment or delivery of goods. Also see Open-End Pricing and Price Prevailing at Date of Shipment.

Price Ceiling: Upper limit imposed on the price of a good. The highest price that a buyer is willing to pay. (Business, 2002)

Price Competition: Selection of a contractor, from two or more vendors, based either solely on prices submitted, or on the final prices resulting from a negotiation with all contractors within a competitive range.

Pricing: The process of establishing a reasonable amount to be paid for goods and services. Generally includes labor, material, ancillary costs and profit.

Procurement: Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. The combined functions of purchasing, inventory control, traffic and transportation, receiving, inspection, storekeeping, salvage and disposal operations.

Procurement Methods: Methods by which goods, services, or material may be acquired by public purchasers. The methods may include blanket orders, emergency purchases, standing offers, purchase orders, transfers, competitive bidding, competitive negotiation, intergovernmental cooperative agreements, small purchase contracts, purchases via a credit card, etc.

Prohibited Contracts: In accordance with 44 CFR Part 13.36(f) (4), **cost plus percentage of cost** contracts shall not be used. Use of such contracts may result in FEMA limiting the Public Assistance grant to an amount determined to be reasonable based on the eligible work performed. Contracts that are awarded by an applicant to **debarred contractors** are prohibited pursuant to 44 CFR Part 13.35; thus, no Federal funding can be awarded for eligible work completed.

Purchase order: A purchaser's written document to a vendor formalizing all the terms and conditions of a proposed transaction, such as a description of the requested items, delivery schedule, terms of payment, and transportation.

Purchase Requisition (PR): A document created by a requestor authorizing the commencement of a purchasing transaction. Typically will include a description of the need and other information that is relative to the transaction. May be submitted in hard copy or via eProcurement software.

Qualified Bidder: A bidder determined by the purchasing organization to meet the minimum standards of business competence, reputation, financial ability, and product quality for placement on the bidders list. Also see Responsible Bidder.

Qualified Products List (QPL): A list of items (products) that have been examined and tested and have satisfied all applicable qualification requirements. These lists are used on procurements to restrict bidders/offerors to those products on the lists. This may also be referred to as an Approved Brands List (ABL) or an Approved Products List (APL). (Nash, Schooner, O'Brien, 1998) –

Qualified Products List (QPL) Specifications: QPL Specifications are based on a list of products identified by manufacturers' names and model numbers, which are the only items which will be acceptable. These are used when quality is such a critical factor and testing so lengthy or expensive that the agency wants to stay with proven products. The list is prepared by testing products, either in the lab or in daily use. Items may be added to the list by the supplier demonstrating their quality by meeting specifications that have been defined by the using entity.

Reasonable Cost: A reasonable cost is defined by the Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments* and Circular A-122, *Cost Principles for Non-Profit Organizations,* as a cost which in its nature and amount does not exceed that which would be incurred by a prudent person under the circumstance prevailing at the time the decision was made to incur the cost. Considerations include evaluating historical costs for similar work, analyzing costs for similar work in the region, reviewing published unit cost data for the work, or comparing costs with the FEMA Schedule of Equipment Rates and Cost Codes. The source of costs may include: the applicant's force account labor, equipment, and materials; contracted services; and mutual aid agreements. Costs are discussed further in Chapter 2, *Costs*.

Reasonable Cost: A cost that by its nature or amount does not exceed what would normally be incurred by an ordinarily prudent person in the conduct of competitive business. Often used in the context of "fair and reasonable" cost/price.

Receipt: Written acknowledgement that one party has obtained money or something of value from the other, without any affirmative obligation upon either party.

Receiving: The function of accepting from all sources all items of supply used in the organization.

Receiving report: A document used in the receiving and inspection process that identifies the item, quantity, and date of delivery. It may also note any discrepancies or problems.

Reference: A component of due diligence to determine the capability of performing contractual requirements whereby previous businesses are contacted concerning the potential contractors skills, qualifications and capabilities.

Request for Comments (RFC): A document generated prior to an authorized procurement in order to request feedback from the contracting community or potential proposers/bidders, to seek information about a product or service in order to assist in the finalization of technical specifications, design specifications, or a statement of work. Also see Pre-Solicitation Conference and Request for Information (RFI). (ISM, 2000)

Request for Information (RFI): A non-binding method whereby a jurisdiction publishes via newspaper, internet, or direct mail its need for input from interested parties for an upcoming solicitation. A procurement practice used to obtain comments, feedback or reactions from potential suppliers (contractors) prior to the issuing of a solicitation. Generally price or cost is not required. Feedback may include best practices, industry standards, technology issues, etc. Also see Pre-Solicitation Conference and Request for Comments (RFC).

Request for Proposal (RFP): The document used to solicit proposals from potential providers for goods and services (Offerors). Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price prior to contract award. May include a provision for the negotiation of Best and Final Offers. May be a single step or multi-step process. Introduced in the Armed Services Procurement Act of 1962 as well as by the Competition in Contracting Act of 1984.

Request for Qualifications (RFQu): A document which is issued by a procurement entity to obtain statements of the qualifications of potential development teams or individuals (i.e. consultants) to gauge potential competition in the marketplace, prior to issuing the solicitation.

Request for Quotation (RFQ): A small order amount purchasing method. Generally used for small orders under a certain dollar threshold, such as $1,000.00. A request is sent to suppliers along with a description of the commodity or services needed and the supplier is asked to respond with price and other information by a pre-determined date. Evaluation and recommendation for award should be based on the quotation that best meets price, quality, delivery, service, past performance and reliability.

Requisition: An internal document by which a using agency sends details of supplies, services, or materials required to the purchasing department.

Rescission of Contract: The relieving of a party from all obligations under a contract. A remedy for mutual mistake when reformation is not possible, and for other defects in contract formation such a duress, fraud, misrepresentation and unconscionability. (Nash, Schooner, O'Brien, 1998)

Residual Value: The proceeds, less removal and disposal costs, if any, realized upon disposition of a tangible capital asset *(FAR 31.001).*

Responsible Bidder/Offeror: A contractor, business entity or individual who is fully capable of meeting all of the requirements of the solicitation and subsequent contract. Must possess the full capability, including financial and technical, to perform as contractually required. Must be able to fully document the ability to provide good faith performance. Also see Qualified Bidder.

Responsive Bidder/Offeror: A contractor, business entity or individual who has submitted a bid or request for proposal **that fully conforms in all material respects** to the IFB/RFP and all of its requirements, including all form and substance.

Restocking Charges: On occasion, a public entity may inadvertently order more product or equipment than is required or, in error, order the wrong material. This is the charge incurred when returning the oversupply to the seller. It is good practice to include a restocking charge clause allowing the public entity to return the product for a negotiated restocking fee.

Sealed Bids: A formal method where bids are publicly advertised and solicited, and the contract is awarded to the responsible bidder whose proposal is the lowest in price. This method is the preferred method for procuring construction contracts (FEMA.gov).

Service/Services Contract:

1. An agreement calling for a contractor's time and effort.
2. The furnishing of labor, time, or effort by a contractor or vendor, which may involve to a lesser degree, the delivery or supply of products. The UCC/state commercial codes only apply to a procurement of a product, while state common law would apply if it is considered a procurement of a service.

Scope of Work: A detailed, written description of the conceptual requirements for the project contained within a Request for Proposal. The scope of work should establish a clear understanding of what is required by the entity.

"Shall": denotes the **imperative** in contract clauses and terms.

Sherman Antitrust Act (U.S. Law): Passed by Congress in 1890, it prohibits contracts and conspiracies in restraint of trade, conspiracies to monopolize trade, and attempts to monopolize. The act makes price fixing, bid rigging, territorial market allocation, and some types of tying arrangements and boycotts illegal. Also see Clayton Act, Price Fixing and Tying Arrangement. (Business, 2002)

"Should": signifies something you ought to do or indicating a desirable or expected state. (COC)

Simplified Acquisition Procedures: policies and procedures for the acquisition of supplies and services, including construction, research and development, and commercial items, the aggregate amount of which does not exceed the simplified acquisition threshold.

Simplified Acquisition Thresholds: means $150,000 (41 U.S.C. 134), except for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack

Small Business: An independently owned firm, corporation, or establishment, having a small number of employees, low volume of sales, small amount of assets, and limited impact on the market.

Small Business Act: 1999 act which establishes the Federal Government's responsibility to aid, counsel, assist, and promote the interests of small businesses (as defined by the Small Business Administration), and to place with such businesses a fair proportion of Federal Government purchases and contracts for goods and services.

Small Business Administration (SBA): An independent agency of the Federal Government that offers managerial and financial assistance to small businesses. The SBA mission is to maintain and strengthen the nation's economy by aiding, counseling, and assisting the interests of small businesses. (www.sbs.gov)

Small Disadvantaged Business: A business offered preferential treatment: a small business that qualifies for preferential consideration for government contracts, usually because it is largely owned by a socially and economically disadvantaged person or group. Also see Economically Disadvantaged Individuals, Historically Underutilized Business (HUB), Minority-Owned Business (MBE) and WBE. (Encarta® World English Dictionary © & (P) 1998-2004 Microsoft Corporation. All rights reserved.)

Small Purchase: Any procurement not exceeding a given upper monetary limit, as established by law, regulation, executive order, etc. Usually applies to purchases of small dollar amounts under a certain monetary threshold.

Small purchase procedures: An informal method for securing services or supplies that do not cost more than $25,000 by obtaining several price quotes from different sources.

Socioeconomic Programs: Using governmental purchasing power to promote public policy. Examples include: encouraging living wage programs in public contracting, establishing small business and minority procurement goals and establishing environmental procurement initiatives. (Schiller, 2000)

Sole Source Procurement: A situation created due to the inability to obtain competition. May result because only one vendor or supplier possesses the unique ability or capability to meet the particular requirements of the solicitation. The purchasing authority may require a justification from the requesting agency explaining why this is the only source for the requirement.

Sole Sourcing: U.S. - Selection of one particular supplier to the exclusion of all others. This decision may be based on lack of competition, proprietary technology, copyright or a supplier's unique capability. In government procurement, a sole source justification may be required from the requestor. Also see Single Sourcing.

Solicitation: An invitation for bids, a request for proposals, telephone calls or any document used to obtain bids or proposals for the purpose of entering into a contract. Also see Bid and Tender.

Sourcing: The identification and selection of the supplier whose costs, qualities, technologies, timeliness, dependability, and service best meet the organization's needs. (Burt, Dobler, Starling, 2003, 16)

Special Considerations: FEMA uses the term "special considerations" to describe issues other than basic program eligibility that affect the scope of work and funding for a project. Applicants have a critical role in identifying and resolving special considerations issues. The applicant should assist FEMA by identifying the issues as early as possible and providing the information necessary for review. A brief description of environmental and historic preservation special considerations that relate to debris operations are set forth below.

Special Procurement: A type of procurement, as practicable under the circumstances and initiated by the head of the entity, for an unusual or unique situation. The contract is not awarded based on the application of requirements of competitive sealed bidding or competitive sealed proposals that could be contrary to the public interest or the needs of the entity.

Stafford Act: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, §42 U.S.C. 5121, et seq which authorizes FEMA's current disaster assistance programs and the Hazard Mitigation Program. The Program provides assistance for debris removal, implementation of emergency protective measures, and permanent restoration of eligible facilities and infrastructure. - (FEMA.gov & Public Assistance Debris Guide @ Fema.gov)

Statement of Work: The response from the supplier/contractor outlining very specifically how the supplier proposes to complete the work as outlined in the Scope of Work. It defines what will be done, how, by whom, and cost factors.

Statutes: The written laws approved by legislatures, parliaments or house of assembly. Also known as legislation.

Statutory Law: The written law established by enactments of government, expressing the will of the legislature. A statute is the written law as opposed to common law, which is unwritten law. Statutes are written at all levels of government.

Surplus:

1. Results in an overstock situation when the quantity of goods on hand exceeds the quantity of goods needed. The overstocked goods may be returned to the vendor, sold at auction or disposed of in a method acceptable to the entity.
2. Refers to goods or materials that are obsolete or no longer needed by the agency and are designated for disposal. Surplus becomes available for disposal outside of the entity because of some unforeseen situation that affects the use of the item. An example would be chairs or desks that have been replaced with new items. Also see Obsolete Supplies/Equipment.

Suspension: Prohibiting a supplier from submitting bids and offers for a definite or indefinite period of time. A temporary determination to exclude a supplier from obtaining any contracts for a period of time, usually before initiating debarment. Reasons for this action may include poor performance, late deliveries, violations of previous contract terms, etc. Also see Debarment.

Task order: See Delivery order contract

Technical Proposal: A response to a solicitation which describes in detail what an Offeror proposes to furnish and the method of delivery. May be part of a two-step response contained within an offer, the second part being the price proposal.

Technical Specifications: Specifications that establish the material and operating requirements of products and services.

Temporary labor/hires: Temporary laborer to backfill regular staff who are performing eligible work.

Term Contract: A type of contract in which a source of supply is established for a specified period of time for specified services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.

Termination for Convenience: A contract clause which may be contained within boilerplate language that allows for contract to be ended at the discretion of the governmental entity. Action by which the purchasing entity, in accordance with contract provisions, unilaterally cancels all or part of the contract work for the best interest of the jurisdiction, and with no reflection on the contractor's performance. Also see Cancellation of a Contract, Discharge by Mutual Assent, and Termination for Default.

Termination for Default: A contract clause which may be contained within boilerplate language that allows either contracting party the right to cancel a contract, either in whole or in part, due to failure of the other party to perform satisfactorily. Also see Cancellation of a Contract, Discharge by Mutual Assent and Termination for Convenience.

Terms and Conditions (T's and C's): Standard boilerplate language that includes standard clauses and rules which apply to bids and offers formally solicited that may become incorporated into the final contract. Also see Boilerplate.

Terms of Contract: Stipulations made in contracts.

Terms of Payment: The methods of payment stipulated in a sales or purchasing contract.

Unallowable Cost: Any cost which, in accordance with pertinent laws or regulations, cannot be included in prices or cost-reimbursements under a contract to which the cost is allocable. (Nash, Schooner, O'Brien, 1998)

Unbalanced Bid: A bid that contains pricing aberrations, for example, low or nominal prices may be bid for some items and high or enhanced prices may be bid for other work. This may happen in time and material contracts or construction contracts where upfront payment may be made for mobilization. It is wise policy to state in the bid documents that "unbalanced bids may be deemed non-responsive". Unbalanced bids may be deemed to be non-responsive, and may be both mathematically unbalanced and materially unbalanced. Many public entities utilize a bid analysis procedure to help identify unbalanced bids; example: State of Wisconsin DOT Construction and Materials Manual, Section 2.1.2.1.1, revised 10/98. Also see Front-End Loading. (Miller, 2006)

Underemployment: An economic condition where people seeking full-time paid employment work only part time or are employed at jobs below their capability. (Schiller, 2000)

Unemployment: The inability of labor-force participants to find jobs. An economic condition in which a percentage of the population wants to work but is unable to find sustainable employment. (Bishop, 2004)

Uniform Administrative Requirements for Grants in Aid to States and Local Governments: Document issued by the Office of Management and Budget (OMB) in 1988 to establish uniform administration rules for federal grants and cooperative agreements. Also see OMB Circular A-102.

Unit: A standard or basic quantity into which an item of supply is divided, issued, or used, such as a unit cost or unit of measurement.

Unit Cost: The cost of a unit of product or service, found by dividing the total costs for a given period of operation by the number of units produced in that period of operation.

Unit Labor Cost: Hourly wage rate divided by output per labor-hour. (Schiller, 2000)

Unit Price: The cost per unit of a product or service; e.g., price per ton, per labor hour, or per foot.

Unnecessarily restrictive: A term used when specifications or terms and conditions limit competition arbitrarily, without reasonably promoting the fulfillment of the procurement needs of a contracting authority.

Value Added:

1. The increase in worth of a product or service as it moves through various stages of production and distribution.
2. What contribution a service function within an organization can make toward return on investment, increased productivity, or improved customer service. (Business, 2002)

Value Analysis: An organized effort directed at analyzing the functions of a product or service including specifications, standards, practices and procedures with the intent to satisfy the required function at the lowest possible cost without impacting functional need and suitability. Also see *Value Engineering. (Nash, Schooner, O'Brien, 1998)*

Vendor: A supplier/seller of goods and services. A reference to a provider of a product or service

AFFIRMATIVE ACTION PROCUREMENT AND CONTRACTING GOALS

It is the goal of the City of Columbia, SC to maximize opportunities for historically Disadvantaged Enterprise Businesses (DBEs) including, but not limited to, Small Businesses (SBEs), Minority Businesses (MBEs), Women-Owned Businesses (WBEs). The City has implemented an overall citywide 10% goal to encourage socially and economically disadvantaged business participation. This goal extends to bidders, subcontractors and suppliers on its procurement and contracting offerings.

Additional information on the City's affirmative action goals and objectives may be obtained by contacting the following office:

City of Columbia Office of Business Opportunities
1225 Lady Street, Suite 102
Columbia, SC 29201
(803) 545-3950
www.columbiasc.net/OBO

The City's success in tracking the amount of business received by SBE, MBE and WBE FIRMS (whether as a prime contractor or subcontractor) is dependent upon the business community partnering with us in this important endeavor. Each firm submitting a bid, offeror or RFQ shall ensure their proposed submittal identifies the percentage of subcontracting anticipated for this effort. Please complete the Small Business Form included in your bid packet and sign to certify if your business is a SMWBE and the anticipated percentage of work that you intend to subcontract to assist the City with its DBE goals.

The City reserves the rights to review and evaluate each proposal (RFP and RFQu) and provide points to the evaluation criteria up to 10% points, as applicable.

By signing this bid proposal or Contract, as applicable, the Contractor or Offeror certifies that reasonable good faith efforts have been made to encourage participation of the aforementioned suppliers and subcontractors and also have included certified minority and women-owned business enterprises on this project. Further, the Offeror or Contractor also certifies that the business will retain the documentation of these efforts and provide information to the City upon request.

The Successful contractor must comply with the terms and conditions as outlined herein. The Contractor, shall, in the performance of the contract/agreement, make constructive efforts to assist the City in complying with best practices in contracting as it relates to meeting affirmative action objectives.

(In addition to above, the following language is recommended to be added to all federally funding projects)

The Successful contractor must adhere to federal regulations 2CFR 200.321 and 24 CFR 85.36E and take the following affirmative steps to ensure that Small and Minority Businesses, Women-Owned Businesses and Labor Surplus Area firms are utilized to the fullest extent possible:

2 CFR 200.321 - Procurement and Affirmative Action - Small and Minority Businesses, Women-Owned Businesses, and Labor Surplus Area Firms

Organizations must take the following affirmative steps to ensure these firms are used when possible:

1. Place qualified small, minority, and woman-owned business on solicitation lists;
2. Assure that such businesses are solicited when they are potential sources;
3. Divide total requirement, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses;
4. Establish delivery schedules, where requirements permit, which encourage such business to respond;
5. Use service and assistance from such organization as SBA, Minority Business Development Agency of the Department of Commerce; and
6. Require prime contractors to take the same affirmative steps.

24 CFR 85.36.E - Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

1. The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.
2. Affirmative steps shall include:
   i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
   ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
   iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
   iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
   v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and
   vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(The following info is recommended to be inserted in the final contract)

SUBCONTRACTING GOALS

As a result of this contract/agreement, the subcontracting goals are as follows:

SB Goals _____ %
MBE _____%
WBE _____%
LSA _____%

The contractor will also be expected to ensure subcontractor performance during the period of performance and include optional periods as applicable. Achievement of these goals is expected during the life of the contract/agreement to include any changes incorporated by modification to the contract/agreement.

The following document is recommended to be placed in all solicitations: _____

APPENDIX (Blank)

SMALL, MINORITY, WOMEN-OWNED BUSINESS OBJECTIVES

INCLUDING LABOR SURPLUS UTILIZATION PLAN

INSTRUCTIONS: This form must be submitted with any bid, proposal, or proposed negotiated contract or within a reasonable time thereafter, but prior to contract award. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Small, Minority and Women-owned Business Enterprise (SMWBE) under the contract. This form includes federally required Labor Surplus Utilization efforts. Attach additional sheets if necessary.

If you are a SBE, MBE WBE, or other type of disadvantaged business enterprise, please check one of the following boxes:

SBE MBE _____ WBE Other _____

1. In the spaces below, report the anticipated dollars that you intend to subcontract to each business type if a contract or agreement is awarded to your firm. (If you do not intend to subcontract any work to others, even if you are a S/M/WBE, put zeros in the spaces below).

   Total **SBE Participation Percentage** to be subcontracted %

   Total **MBE Participation Percentage** to be subcontracted %

   Total **WBE Participation Percentage** to be subcontracted %

   Total **Other DBE Participation Percentage** to be subcontracted %
   _____

2. If you are not a SBE, MBE, or WBE and you do not plan to utilize such firms in this agreement, please state your reasons and use an additional page if needed:

_____

_____

_____

_____

LABOR SURPLUS UTILIZATION PLAN

In accordance with federal requirements, the City also encourages the use of firms located in labor Surplus areas. A Labor Surplus area is an area designated by the Secretary of Labor as having concentrated unemployment or underemployment in comparison with other areas. Used as one of the criteria for designating economically disadvantaged vendors/suppliers. **If your business is located in a labor surplus area, please check here:**
Define the LSA here_____
The City anticipates that this effort will be continued to the maximum extent practicable throughout the life of the contract or agreement. Any changes or modification to the contract/ agreement will include, at a minimum the same proposed goals included in the negotiated agreement/contract.
The goals provided by the Successful Offeror shall be incorporated into the final contractual agreement between the parties or as amended through final contract negotiations.
By submitting this Exhibit, the respondent certifies he/she is an authorized representative of the company, understands and will comply with all requirements herein in any awarded action.

_____	_____
Signature	**Date**
_____	_____
(Print Name)	**Business Name**