

APPENDIX E-2

PROCUREMENT

There are times when it may be necessary to procure goods and/or services in order to accomplish the goals of a program. For example, it may be necessary to purchase equipment or subcontract for services that the recipient does not have the required in-house expertise to perform.

Procurement Standards

General – A State shall follow the same policies and procedures it uses for procurement from its non-Federal funds. The State shall ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Subrecipients of States shall follow the procurement requirements imposed upon them by the States. Other recipients and subrecipients will follow the appropriate OMB Circular (OMB A-110 or OMB Circular A-102).

Standards – Recipients and subrecipients shall use their own procurement procedures and regulations, provided that the procurement conforms to applicable Federal law and standards identified in the Procurement Standards Sections of 28 CFR Parts 66 and 70. Any recipient/subrecipient whose procurement system has been certified by a Federal agency is not subject to prior approval requirements of 28 CFR Parts 66 and 70.

Adequate Competition – All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free competition. All sole-source procurements in excess of \$100,000 must receive **prior** written approval from DHS&EM. Interagency agreements between units of government are excluded from this provision.

Non-competitive Practices – The recipient/subrecipient shall be alert to organizational conflicts of interest or non-competitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. Contractors that develop or draft specifications, requirements, statements of work, and/or Requests for Proposals (RFP) for a proposed procurement shall be excluded from bidding or submitting a proposal to compete for the award of such procurement. Any request for exemption must be submitted in writing to DHS&EM for prior approval.

Sole Source Procurement (Non-Competitive)

All non-state procurement transactions shall be conducted in such a manner that provides, to the maximum extent practical, open and free competition. However, should a recipient elect to award a contract without competition, sole source justification will be required. Justification must be provided for non-competitive procurement and should include a description of the program and what is being contracted for, an explanation of why it is necessary to contract noncompetitively, time constraints and any other pertinent information. DHS&EM will approve sole-source procurements prior to award of procurement by recipient/subrecipient.

PROFESSIONAL SERVICES

The customary fixed fee or profit allowance in cost-type contracts may not exceed 10 percent of the total estimated costs. This is applicable to contracts under grants.