

**TEXAS
DEPARTMENT
OF PUBLIC
SAFETY**

**DIVISION OF
EMERGENCY
MANAGEMENT**

- **Governing Regulations**
- **Methods of Procurement**
- **Procurement Requirements**
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Procurement 101

Getting and KEEPING your FEMA grant dollars!

Governing regulations for procurement are dependent upon the type of grant you receive. For disaster-related grants, the effective date is dependent on the issuance of the Presidential Declaration (PD). For non-disaster grants, the effective date is dependent on the date the grant award is issued.

It is YOUR responsibility to have a working knowledge and to comply with local, State, Federal (and your own) procurement guidelines in order to keep all funds you were approved to receive. You must ensure that your contractors also follow all applicable procurement



Entity	Grant Awards Pre 12/26/2014		Grant Awards Post 12/26/2014	
	Regulation	Cost Principle	Regulation	Cost Principle
State/local governments	44 CFR 13.36	2 CFR 225	2 CFR 200.317-.342	2 CFR 200.400-.475
Tribal	44 CFR 13.36	2 CFR 225		
Private Nonprofits (PNP)	2 CFR 215.40-.48	2 CFR 230		
Hospitals	2 CFR 215.40-.48	2 CFR 230		
Educational Institutions	2 CFR 215.40-.48	2 CFR 220		

Methods of Procurement

Micro-purchases	<p>Does not apply to Presidential Declarations (PDs) prior to 12/26/2014</p> <ul style="list-style-type: none"> ◆ Applies to purchases less than OR equal to \$3,500. ◆ No solicitation required. ◆ Subrecipient (Applicant) determines reasonableness.
Small purchases	<p>Applies to purchases less than or equal to \$100,000/ \$150,000.</p> <ul style="list-style-type: none"> ◆ State Law if more restrictive than the Simplified Acquisition Threshold (SAT). ◆ Only quotes required - a minimum of three (3) written or telephone quotes from qualified sources. ◆ Purchases of commercial products sold in substantial quantities to the general public. <ul style="list-style-type: none"> —Limited by State law to contracts for supplies and materials less than \$10,000. —Item must meet the definition of commercial product.
Sealed bids	<ul style="list-style-type: none"> ◆ Preferred for construction. ◆ Fixed price. ◆ Publicly advertised and publicly opened. ◆ Two (2) or more responsive bidders. (Rejected bidders are not considered responsive.) ◆ Awarded to lowest, responsive, responsible bidder. ◆ Any OR all bids may be rejected for a sound, documented reason.
Competitive proposals	<p>GENERAL</p> <ul style="list-style-type: none"> ◆ Must have more than one (1) responsible bidder. ◆ Must be publicized to maximum extent practical. ◆ Must have written procedure for conducting evaluations and award
Request for Proposal (RFP)	<p>Price a criteria for selection</p> <ul style="list-style-type: none"> ◆ Contract awarded to firm offering best value.
Request for Qualification (RFQ)	<ul style="list-style-type: none"> ◆ Limited to Architectural and Engineering (A/E) services. ◆ Qualifications only criteria selection. ◆ Price negotiated after selection based on cost analysis.
Non-competitive proposals	<ul style="list-style-type: none"> ◆ Available only from a single source. ◆ Used when insufficient number of responses received. ◆ Used in emergency or exigent circumstances. ◆ Always requires a cost analysis.

CONTRACTS TO USE

Lump Sum	Contract for work within a prescribed boundary with a clearly defined scope + a total price.
Unit Price	Work done on an item-by-item basis, with cost determined per unit (e.g., box, cubic yard, etc.).
Cost + fixed fee	Total cost with a defined fixed fee added to the price.
Time + Materials	<p>Must make determination that no other type of contract is suitable; must contain a not-to-exceed (ceiling) clause. Payment based on hourly rate schedule and cost of materials.</p> <ul style="list-style-type: none"> ◆ Maintain high degree of oversight. ◆ Contracts used for emergency protective measures and debris operations cannot exceed 70 hours continuous of actual work
InterGovernmental Agreements	Subrecipients (Applicants) are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

CONTRACTS TO AVOID

Piggy Back Contracts	<p>Piggyback contracts are generally ineligible. However, work done using another Subrecipient's (Applicant's) pre-existing properly procured contract must meet strict criteria to be eligible. The existing contract must be viable, same item must be purchased, price and vendor must also be the same; include written mutual consent of the original contracting parties.</p>
Cost + Percentage of Costs	Strictly prohibited.
Percentage of construction cost	Strictly prohibited.
Cost Plus Contract	Not allowed under State bid law (Title 38).

The regulations require the Subrecipient (Applicant) have certain written procedures (44 CFR 13.36, 2 CFR 215, 2 CFR 200) which are:

Contract administration system to ensure contractor performance: 13.36(b)(2), 215.47

Employee codes of standards and conflicts of interest: 13.36(b)(2), 215.47

Protest procedures: 13.36(b)(12), 215.41, 200.318(k)

Written selection procedures for procurement transactions: 13.36(c)(3), 215.44, 200.320(d)(3)

Contracting with small and minority firms, women's business enterprise and labor surplus area firms: 13.36. 215.44(b), 200.321

Recovered materials: 200.322

Acquisition of unnecessary or duplicative items: 13.36(b)(4), 215.44(a)(1), 200.318(d)

Category of Purchase	Federal Regulations	Size of Contract	Requirements for State, Local, & Federally Recognized Tribal Government Entities
Materials & Supplies	Quotes Required	Less than a \$1000 and \$1000-\$9,999	No competitive procedure or cost analysis for commercial items.
		\$10,000 - \$30,000	Three (3) telephone or FAX quotes.
	Bids Required	Greater than \$30,000	Bids required.
Public Works	Quotes Required	Less than or equal to \$150,000	No bid requirement
	Bid required	Greater than \$150,000	Bid required No minimum number of responses
Services (Except for A/E)	Quotes Required	Less than or equal to \$150,000	No bid requirement
	Bid Required (RFP)	Greater than \$150,000	
A/E Services	Request for Qualification (RFQ)	Any Size	No bid Requirement
State Cooperative Purchase (SCP)	Authorized under 44 CFR 13.36(b) & 2 CFR 200.318 (f)	Any Size	<ul style="list-style-type: none"> ◆ ONLY Office of State Procurement (OSP) SCP contracts. ◆ Can be used for materials plus supplies plus equipment.



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