

**REQUEST FOR PROPOSALS
NO. RFP #GBHWC-05-2015**

**PREVENTION EDUCATION AND COMMUNITY EMPOWERMENT (PEACE) PARTNERSHIPS FOR
SUCCESS**

Community Action Plan Implementation and Evaluation

RFP AMENDMENT #2

DATE: 08/18/2015

The above referenced solicitation is hereby amended to respond to the following written questions received via email on August 14, 2015 are hereby responded to:

1. A prospective offeror has one partnership grant involving students. Does that preclude them from submitting a different proposal? If the answer to this is "yes", it won't be necessary to proceed.

Answer: No. Please refer to Section III, Background and Services Required, Page 8-10 of RFP. 3 pages

2. The RFP calls for "implementation and evaluating" a Community Action Plan (CAP). Is it necessary for this plan to have been reviewed by and endorsed by PEACE before a proposal is presented?

Answer: Please refer to Section I. Public Notice, Page 4, Paragraph 4, which states that PFS partners will implement and evaluate their PEACE-endorsed Community Action Plans to prevent substance use and abuse and promote positive mental health. 1 page

3. Are there any restrictions to involving faith-based organizations in the community? The approach a prospective offeror would like to propose would be to achieve PEACE PFS goals by training pastors and youth ministers of local churches. The proposal would also work to build the capacity of the pastors and youth ministers to evaluate and respond to alcohol and substance abuse issues over a long period of time.

Answer: No. Please refer to Section IV, Proposal Provisions – General Intention, Page 13-14. 2 pages. Also, please refer to XIV, Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations SMA 170, page 39. 1 page.

4. Are there specific expectations regarding the resources that exist with a prospective offeror and the participating churches?

Answer: Yes. Please refer to Section III. Background and Services Required – Contractor Qualifications, Page 8-10. 3 pages

Additionally, Section XXIII of the above referenced solicitation is hereby amended to replace Procurement Standards – 2 CFR Chapter I and Chapter II, Part 200, et. al., 12 pages. Page 12 is corrected to state Page 12 of 12 instead of Page 9 of 9.

NO. RFP #GBHWC-05-2015

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Page 2

For those reviewing this proposal amendment from the website, the acknowledgement form can be dropped off at 790 Governor Carlos G. Camacho Road, Tamuning, Guam, during weekdays, except Holidays and weekends, faxed at 671-477-9076 or emailed to maria.lozada@mail.dmhsa.guam.gov.

Any questions regarding this amendment must be submitted in writing to the undersigned Procurement Officer.



REY M. VEGA

Procurement Officer

PHONE: **647-1901**

FAX: **649-6948**

E-MAIL: rey.vega@gbhwc.guam.gov

**REQUEST FOR PROPOSALS
NO. RFP #GBHWC-05-2015
AMENDMENT #2
DATE: 08/18/2015**

ACKNOWLEDGEMENT

By my signature below, I hereby acknowledge receipt of and compliance with this amendment to the above referenced RFP.

NAME OF BIDDER OR OFFEROR
MAILING ADDRESS
PRINTED NAME
SIGNATURE
TITLE
DATE

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REY M. VEGA
Procurement Officer

PHONE: **647-1901** / FAX: **649-6948** / E-MAIL: rey.vega@gbhwc.guam.gov

Applicants are required to read and become familiar with Guam's Epidemiological profile and Guam's SPE Comprehensive Strategic Plan (2014–2018) available online at http://peaceguam.org/Data/docs/statistics/Guam_Epi_Profile_2012_FINAL.pdf and http://peaceguam.org/Prevention/docs/SPF-SIG/PEACE_SPE5-YearComprehensiveStrategicPlan_FINAL.PDF which serve as the framework for determining Guam's strategic priorities for substance abuse, suicide prevention and early intervention, and mental health promotion.

III. BACKGROUND AND SERVICES REQUIRED

Substance abuse and suicide data presented in the Guam Epidemiological Profile (2012 Update) and highlighted in the Guam's SPE Comprehensive Strategic Plan (2014–2018) provide direction and justification for Guam's PEACE PFS goals. PEACE PFS Partners must adhere to the Strategic Prevention Framework (SPF) 5-step process and demonstrate that they have:

- 1) documented evidence of what is happening with whom their organization serves, with regard to identified PEACE PFS priorities;
- 2) received formal training in prevention and have some organizational level of readiness to address selected priorities; and
- 3) a Community Action Plan that describes what they will implement and evaluate (to address identified risk and protective factors; to lead in the implementation and evaluation of comprehensive and culturally relevant Interventions; to mobilize community members and partners, to strengthen community readiness and active involvement of organization members, volunteers, community stakeholders in serving individuals and groups in high needs; and to sustain interventions that are culturally relevant and address PEACE PFS Goals).

RFP applicants are required to submit a Needs Assessment Report and a Community Action Plan (CAP) that describe the following:

- 1) Organizational background, vision and mission, population it serves/reaches, structure, resources, partnerships and collaborations;
- 2) Planning process: how the organization developed its CAP with community participation;
- 3) Assessment of what contributes to and protects their service recipients from alcohol, tobacco and/or suicide and related consequences and what priorities the organization selected to address;
- 4) Action Steps that detail the organization's goals, objectives, PEACE Pillars for Success to be addressed, and evidence-based prevention strategies to be implemented and evaluated for each selected risk and protective factors;
- 5) Adherence to the National Standards for Culturally and Linguistically Appropriate Services;
- 6) A Communication Plan that describes communication objectives, strategies, work plan and evaluation;
- 7) How selected interventions will be sustained beyond the life of the PFS grant;
- 8) Evaluation component with process and outcome measures to be tracked; and

- 9) Logic Model that provides a roadmap of what the applicant proposes to address for each of its goal(s).

SCOPE OF WORK

Applicants will continue to adhere to the Strategic Prevention Framework (SPF) 5-step process to:

- 1) Implement their Community Action Plan, and with guidance from the PEACE PFS Evaluator and Staff, evaluate activities that capture process and outcomes measures to be tracked.
- 2) Participate in training and technical assistance activities to strengthen the organization and community's prevention capacity and readiness to implement prevention interventions and sustain positive outcomes.
- 3) Complete and submit bi-monthly and year-end reports to GBWHC documenting the PFS work accomplished as well as challenges and lessons learned.
- 4) Work in collaboration with the PEACE PFS Staff, Evaluator and SEOW Lead to collect and report process and outcome data measures, using GBWHC prescribed reporting templates and timelines, and report on required National Outcome Measures and PFS National Cross-Site Evaluation.

CONTRACTOR QUALIFICATIONS

GBWHC requires respondents to be legally licensed and/or registered with the Guam Department of Revenue and Taxation to do business on Guam as a non-profit organization.

Additionally, GBWHC requires respondents to present satisfactory evidence that he or she has sufficient experience and is fully qualified. The PEACE PFS Partners must be able to demonstrate the following:

- a. An assessment of community risk and protective factors that contributes to or protects them from alcohol, tobacco and/or suicide and related consequences.
- b. Prevention knowledge, skills, competence and readiness among staff, community volunteers, and other stakeholders in prevention topics such as:
 - SAMHSA's Strategic Prevention Framework 5-step process
 - Culturally and Linguistically Appropriate Services (CLAS)
 - Gathering Of Native Americans Curriculum (GONA)
 - Program Evaluation (Process and Outcomes)
 - Data Collection, Management and Analysis
 - Substance Abuse Prevention Skills Training (SAPST)
 - safeTALK (Tell, Ask, Listen, KeepSafe)
 - ASIST (Applied Suicide Intervention Skills Training)
 - Strategic Health Communication

- c. Capacity to mobilize staff, volunteers, partners and other community stakeholders to address PEACE PFS priorities as it relates to them.
- d. A Community Action Plan (CAP) specific to their target population that describe what appropriate data-driven interventions will be implemented and evaluated, comprehensive and sustainable to address identified needs among targeted populations.

Proposer must submit no less than two (2) letters of support from key community organizations whom the Proposer intends to involve in the implementation and evaluation of their Community Action Plan and who state their commitment (in relation to personnel time, cost-sharing and/or other resources).

CONTRACT, DURATION, COMPENSATION, RELEASE OF CLAIMS

Type of Contract

The contract that results from this solicitation will be a multi-year contract cost reimbursement contract in keeping with the terms of the federal grant.

Duration of Contract or Term of Service

(A) Initial Term. The initial term of the contract shall begin upon the date that the Governor approves the contract, as signified by his execution of the contract (the "Initial Term"). After the Governor has approved the contract, the government will issue a notice to proceed, or notify the PEACE PFS Partner in some other manner that services are to begin. The initial term of the contract shall end September 30, 2016. Within the Initial Term there are two performance periods: the first period will be from the date of the Governor's signature until September 29, 2015, (First Period); and second period will be from the September 30, 2015 or the Governor's signature whichever comes later (Second Period).

- The First Period is funded with federal grant Budget Period: September 30, 2014 – September 29, 2015; Project Period: September 30, 2013 – September 29, 2018 federal funds.

- The Second Period is funded with federal grant Budget Period: September 30, 2015 – September 29, 2016 federal funds; Project Period: September 30, 2013 – September 29, 2018 federal funds; (and in the event the federal granting agency SAMSHA awards a carry-

I. PUBLIC NOTICE

REQUEST FOR PROPOSALS NO. RFP #GBHWC-05-2015

TITLE: PREVENTION EDUCATION AND COMMUNITY EMPOWERMENT (PEACE) PARTNERSHIPS FOR SUCCESS Community Action Plan Implementation and Evaluation

The Guam Behavioral Health and Wellness Center (GBHWC) is inviting qualified non-profit organizations (school, faith, sports, cultural, village, community, civic-based or others) to join in *Partnerships for Success* to achieve Guam's PEACE vision: *An island community empowered and committed to making informed decisions towards a healthier (mental, physical, spiritual) future for ourselves and others on Guam.*

Interested qualified Guam-based non-profit organizations, whose mission and purpose are aligned with PEACE Partnerships for Success (PFS), are invited to respond to this Request for Proposal (RFP), to be contracted as PEACE PFS Partners funded by the SAMHSA (Substance Abuse and Mental Health Services Administration) Partnerships for Success (PFS) grant for PEACE (Grant Number 5U79SP090157-02, 09/30/2014-09/29/2015 and Grant Number 5U79SP090157-03, 09/30/2015-09/29/2016).

PEACE PFS Partners will be required to follow the Strategic Prevention Framework (SPF) 5-step process and to work together to reach PEACE PFS goals: 1) Prevent or reduce consumption and consequences of underage drinking and problem drinking among 12-20 years old and problem drinking among adults; 2) Prevent or reduce youth and adult tobacco use. To achieve these goals and the overall PEACE Vision, PEACE PFS Partners will collaboratively build upon the PEACE Pillars for Success, the community-generated logic model that drives the 5-Year Prevention Plan for Guam: *Youth Empowerment, Effective Communication, Strong Leadership, Grassroots Engagement, and Safe and Healthy Environment.*

PFS Partners will implement and evaluate their PEACE-endorsed Community Action Plans (CAP) to prevent substance use and abuse and promote positive mental health. The interventions to be used with persons and groups of high need are to be described in their CAP; to build resilience, address risk and protective factors, and strengthen culturally and linguistically appropriate services on Guam. PEACE PFS Partners will also attend trainings and technical assistance meetings to build upon prevention knowledge, skills and resources that will support the successful implementation of their CAP and sustain interventions beyond the life of the grant.

RFP packages may be picked up at the Guam Behavioral Health and Wellness Center Office, located at 790 Governor Carlos G. Camacho Road, Tamuning, Guam, 96913 Monday through Friday, excluding holidays, between 8:00 a.m. and 5:00 p.m or the RFP may be downloaded from GBHWC's website at www.gbhwg.guam.gov. GBHWC recommends all potential offerors register contact information with the agency to ensure they receive any notice regarding any changes or updates to the RFP. GBHWC will not be

period. In the event of cancellation of this multi-term contract as provided above the vendor will be reimbursed its unamortized, reasonably incurred, nonrecurring costs.

There may be multiple certifications of funds by GBHWC during any term of the contract.

Independent Contractor Status

The potential offeror understands that its relationship with the GBHWC is as an independent contractor and not as an employee of the GBHWC. No employee benefits such as insurance coverage, participation in the government retirement system, or accumulation of vacation or sick leave shall accrue to the potential offeror or its individual employees, if any. No type of tax will be withheld from payments made to the awarded potential offeror.

Confidential/Proprietary Information

Any restrictions of the use or inspection of material within the proposal shall be clearly stated in the proposal itself. The offeror must state specifically which elements of the proposal are to be considered confidential/proprietary. Confidential/proprietary information must be readily identifiable, marked and separately packaged from the rest of the proposal. Co-mingling of confidential/proprietary and other information is NOT acceptable. Neither a proposal in its entirety, nor proposal price information will be considered confidential/proprietary. If a proposal contains confidential information, a redacted copy of the proposal must also be submitted. **Any proposal copyrighted or marked as confidential and proprietary in its entirety shall be deemed materially non-responsive to the RFP, and may be rejected by the GBHWC as being non-compliant/non-responsive with the RFP.** Any information that will be included in any resulting contract cannot be considered confidential. The GBHWC will make a written determination as to the apparent validity of any request for confidentiality. In the event the GBHWC does not concur with the Offeror's request for confidentiality, the written determination will be sent to the offeror.

IV. PROPOSAL PROVISIONS

GENERAL INTENTION

The Guam Behavioral Health and Wellness Center is requesting the contractual services from non-profit organizations (school, faith, sports, cultural, village, community, civic-based or others) legally licensed and/or registered with the Guam Department of

Revenue and Taxation to do business on Guam. Eligible applicants must possess the qualifications stated under Section III. Contractor Qualifications.

DESCRIPTION OF THE WORK INVOLVED

A preliminary scope of work, which describes the tasks to be accomplished, is contained in Section III. Upon final selection of a proposal, the scope of services may be modified and refined during coordination and negotiation meetings with GBHWC.

Consultants, partners, sub-grantees, sub-recipients and/or sub-contractors shall ensure that no prevention messages, curricula, programs, strategies, materials, speakers, presentations, sponsorships and/or contracts with entities associated with or receiving funds from tobacco and/or alcohol industries are utilized. Consultants, partners, sub-grantee, sub-recipient and/or sub-contractor will also ensure that these industries are not partnered with in the planning process, delivery and evaluation of prevention services. Approval from GBHWC must be obtained for any and all questionable situations. In addition, consultants, partners, sub-grantee, sub-recipient and/or sub-contractor agree not to partner or receive funds or materials from said industries.

AUTHORITY FOR PROCUREMENT

All agencies of the Government of Guam are required to follow the Guam Procurement Law when spending public funds to purchase "supplies or services" as these terms are described in the Guam Procurement Law. The Guam Procurement Law is codified at Title 2, chapter 5 GCA, and the Guam Procurement Regulations are codified at Title 2, Division of the Guam Administrative Rules and Regulations ("GAR"). The foregoing statutes and regulations are available online at <http://www.guamcourts.org/CompilerofLaws/GCA/05gca/5gc005.PDF>. This RFP is issued by the Guam Behavioral Health and Wellness Center, an agency of the Government of Guam, as authorized by the Guam Procurement Law; GBHWC shall act as the "purchasing agency" for the purpose of procuring the services described in Section III, scope of work. Any party who submits a proposal is known as a "proposer or offeror".

RESTRICTION ON EMPLOYMENT OF SEX OFFENDERS

In addition, the Applicant who is awarded the contract warrants that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or of an offense defined in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated, or who has been convicted of an offense with the same elements as heretofore defined in any other jurisdiction, or who is listed on the Sex Offender Registry shall provide services on behalf of the contractor while on government of Guam property, with the exception of public highways. If any employee of the Contractor is providing services on government property and is convicted subsequent to an award of a contract, then the Contractor warrants that it will notify the Government of the conviction within twenty-four (24) hours of the conviction, and will remove immediately such convicted person from providing services on government property. If

XIV. ASSURANCE OF COMPLIANCE WITH SAMHSA CHARITABLE CHOICE STATUTES AND REGULATIONS SMA 170

Guam Behavior Health and Wellness Center, Guam
Prevention and Training
Guam Peace Partnership for Success
U.S. Department of Health and Human Services
Substance Abuse and Mental Health Services Administration
Federal Grant Funds

Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations SMA 170

Partner/Subrecipient/ Sub Grantee by signing certify that they will comply as applicable, with the Substance Abuse and Mental Health Services Administration (SAMHSA) Charitable Choice statutes codified at sections 581-584 and 1955 of the Public Health Services Act (42 U.S.C. §§290kk, et. seq., and 300x-65) and their governing regulations at 42 C.F.R. part 54 and 54a respectively.

SAMHSA's two Charitable Choice provisions [Sections 581-584 and Section 1955 of the Public Health Service (PHS) Act, 42 USC 290k, et seq., and 42 USC 300x-65 et seq., respectively] allow religious organizations to provide SAMHSA-funded substance abuse services without impairing their religious character and without diminishing the religious freedom of those who receive their services. These provisions contain important protections both for religious organizations that receive SAMHSA funding and for the individuals who receive their services, and apply to religious organizations and to State and local governments that provide substance abuse prevention and treatment services under SAMHSA grants.

APPLICANT ORGANIZATION :

SUBMITTED BY:

Signature of Authorized Official:

Date:

Name of Authorized Official:

Name of Organization:

This form shall be submitted in the Proposal Envelope.

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Guam Behavioral Health and Wellness Center, Guam
Prevention and Training
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U.S. Department of Health and Human Services
Substance Abuse and Mental Health Services Administration
Federal Grant Funds

Procurement Standards – 2 CFR Chapter I and Chapter II, Part 200, et. al.

Partner/Subrecipient/ Sub Grantee by signing below acknowledge that they have been advised of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final agree that they shall apply and are part of this procurement and that they shall comply with applicable provision in their own procurements.

Note, it is possible for the prior OMB Circulars and Regulation to be declared to apply until September 30, 2016 as to new 2 CFR Part 200- Uniform Grant Requirements.

A non-Federal entity needs to include a contemporaneous memorandum in its procurement file that prior OMB Circulars and Regulation applying to the procurement.

Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Subpart B—General Provisions

200.110 Effective/applicability date.

(a) The standards set forth in this part which affect administration of Federal awards issued by Federal awarding agencies become effective once implemented by Federal awarding agencies or when any future amendment to this part becomes final. Federal awarding agencies must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB. For the procurement standards in §§200.317-200.326, non-Federal entities may continue to comply with the procurement standards in previous OMB guidance (superseded by this part as described in §200.104) for one additional fiscal year after this part goes into effect. If a non-Federal entity chooses to use the previous procurement standards for an additional fiscal year before adopting the procurement standards in this part, the non-Federal entity must document this decision in their internal procurement policies.

(b) The standards set forth in Subpart F—Audit Requirements of this part and any other standards which apply directly to Federal agencies will be effective December 26, 2013 and will apply to audits of fiscal years beginning on or after December 26, 2014.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75882, Dec. 19, 2014]

FEDERAL FUNDS- Government of Guam and Non-Federal Entities –Including Sub-Recipients of the Government of Guam

All purchase orders and contracts funded in whole or in part by Federal funds covered by *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule - Procurement Standards* (2 CFR Chapter I, Chapter II, Part 200, et al.) are to comply with, but not limited to the following regulations:

§200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section §200.326 Contract provisions. **All other non-Federal entities, including subrecipients of a state, will follow §§200.318 General procurement standards through 200.326 Contract provisions.**

§200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. 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. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(c)(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also §200.212 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of: (i) The actual cost of materials; and (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(j)(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for

that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements

of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§200.320 Methods of procurement to be followed. The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present: (i) A complete, adequate, and realistic specification or purchase description is available; (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply: (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised; (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond; (iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly; (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost,

and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and (v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

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

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the

particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
- (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
- (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§200.326 Contract provisions. The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the

basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

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Procurement Standards – 2 CFR Chapter I and Chapter II, Part 200, et. al.

PAGE 12 of 12

Partner/Subrecipient/ Sub Grantee by signing below acknowledge receipt of all twelve (12) pages of this form, and that they have been advised of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards above, and they agree that they shall apply and are part of this procurement and that they shall comply with applicable provision in their own procurements.

SUBMITTED BY:

Signature of Authorized Official:

Date:

Name of Authorized Official:

Name of Organization:

This form shall be submitted in the Proposal Envelope.