



Nathan Deal
Governor

GEORGIA ENVIRONMENTAL FINANCE AUTHORITY

Kevin Clark
Executive Director

GEORGIA WEATHERIZATION PROGRAM NOTICE 14-03 EFFECTIVE DATE: September 1, 2014

SUBJECT: General Procurement Policy Statement

PURPOSE: To provide the Georgia WAP network with the procurement procedures activities that meet both Federal directives and GEFA standards.

SCOPE: The provisions of this guidance apply to all sub-grantees awarded a weatherization assistance grant by GEFA under the Department of Energy (DOE) Weatherization Assistance Program.

PROCEDURES: Sub-grantees are required to comply with Federal standards in the purchase of supplies and other expendable property, equipment and services. The purpose of the standards is to ensure that all procurement is practical, open, free competition, and that materials and services are obtained in an effective manner that is the most economical and practical procurement for the Federal Government. These procurement standards must be in compliance with Federal statutes and executive orders.

A. Required GEFA Validation

At the beginning of each DOE weatherization program year, sub-grantees are required to engage in a solicitation for bid and submit to GEFA a "Procurement Approval Request" Exhibit "A" attached, along with a detailed delineation of the full components of the proposed bid process for approval. Grant funds will not be reimbursed unless procurement pre-approval has been received by the sub-grantee. Components of the proposed bid process include:

- Development of specifications
- Advertisement of bid offering
- Solicitation of bid submission
- Compilation of bids
- Analysis of responsible bidders and bids
- Compliance with other Federal and State requirements
- Award of the contract

B. Procurement / Bidding Requirements

All procurement of goods and services with Weatherization funds will be made in accordance with 10 CFR 600.140-148 and OMB Circular A-133 for non-profits, 10 CFR 600.236 and OMB Circular A-102 for State and Local governments and as directed by the Department. These regulations are available through www.waptac.org. It is also understood that more stringent local purchasing policies may apply.

Sub-grantees will establish and maintain written procurement procedures which reflect applicable State and local laws and regulations, provided that the procurement conforms to the applicable Federal regulations identified above and the standards identified in part D. of this section.

Sub-grantees will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders and shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract or purchase orders.

C. Code of Conduct

Sub-grantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the sub-grantee shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The sub-grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the sub-grantee's officers, employees or agents, or by contractors or their agents.

D. Materials Standards

The minimum requirements are set forth in the DOE 10 CFR Part 440, Appendix A- Standards for Weatherization Materials. These standards are produced by the Consumer Products Safety Commission and are published in Title 16, Code of Federal Regulations.

E. Procurement Standards

Sub-grantees will make awards 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. The sub-grantee will maintain records sufficient to detail the significant history of a 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, justification for lack of competition when competitive bids or offers are not obtained, and the basis for the contract price.

Awards shall be made to the bidder/offeror whose bid or offer is responsive to the solicitation and is most advantageous to the sub-grantee, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the sub-grantee. Any and all bids or offers may be rejected when it is in the sub-grantee's interest to do so.

All procurement transactions will be conducted in a manner providing full and open competition. Full and open procurement procedures require that, based on the procurement method, advertisements be placed in local newspapers, or that documented telephone or written price quotes are obtained before purchase of goods or services is completed. Annual advertisement about the intent to purchase goods or procure services is acceptable, however additional solicitation may be required if procurement is necessary outside the scope of any completed advertisements.

When conducting a procurement transaction, agencies should be cautious of situations that may restrict free and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- placing unreasonable requirements on firms in order for them to qualify to do business;
- requiring unnecessary experience and excessive bonding;
- noncompetitive pricing practices between firms or between affiliated companies;
- noncompetitive awards to consultants that are on retainer contracts;
- organizational conflicts of interest;
- specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement; and
- any arbitrary action in the procurement process.

Sub-grantees will have written procedures for all procurement transactions. These procedures shall ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. 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 equal" description may be used as a means to define the performance or other salient requirements of a procurement.

Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar criteria, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.

Contracts in excess of the small purchase threshold (over \$5,000) shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.

F. Types of Procurement

1. 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 \$5,000 over the term of the contract. If small purchase procedures are used, price or rate quotations shall be obtained and documented from an adequate number of qualified sources. At a minimum, documentation must include: the name of the bidder/offeror, description of product or services, date of solicitation, quantity, and per unit and aggregate cost. Procurement of equipment in excess of \$5,000 must have the prior approval of the Department.

2. Procurement by sealed bids (formal advertising) for goods or services over \$25,000 over the term of the contract: Bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. In order for sealed bidding to be feasible, the following conditions should be present:

- A complete, adequate, and realistic specification or purchase description is available.
- Two or more responsible bidders are willing and able to compete effectively for the business.
- 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.

If sealed bids are used, the following requirements apply:

- The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time for response prior to the date set for opening the bids.
- The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond.
- All bids will be publicly opened at the time and place prescribed in the invitation for bids.
- 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 shall 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.
- Any or all bids may be rejected if there is a sound documented reason.

3. 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:

- Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical.
- Proposals will be solicited from an adequate number of qualified sources.
- Sub-grantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees.
- Awards will be made to the responsible firm(s) whose proposal is most advantageous to the program, with price and other factors considered.

4. Procurement by noncompetitive proposals: Procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible 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.

- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- The awarding sub-grantee authorizes noncompetitive proposals.
- After solicitation of a number of sources, competition is determined inadequate.
- Cost analysis, i.e., verifying the proposed cost data, and the evaluation of the specific elements of costs and profits, is required.

The type of procurement used shall be determined by the sub-grantee but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. (The "cost plus percentage of cost" or "percentage of construction cost" methods of contracting shall not be used.)

G. Subcontracting Procedures

Subcontracting for Weatherization and/or heating system services is subject to all appropriate procurement policies provided in 10 CFR 600. Since procurement by sealed bids (formal advertising) may not be appropriate due to the need to procure these services on an on-going and timely basis, and when more than one qualified contractor is necessary to meet the production needs of the sub-grantee, procurement through competitive proposals is also an allowable means to secure these services.

All provisions of the weatherization sub-grantee's contract are applicable to subcontract agreements. Subcontract agreements must clearly state appropriate program policy, federal and state regulations as well as the rights and obligations of each party.

After determining what items or services are to be subcontracted, the sub-grantee must develop a list of specifications for the items/services to be procured along with some form of cost or price analysis using historical data, commercial pricing and sales information sufficient to enable the sub-grantee to verify the reasonableness of the price as a catalog or market price of a commercial product.

A Request for Proposal (RFP) must be developed to include the scope of work, job specifications with an itemized price list, necessary contractor requirements, qualifications and sub-grantee expectations, and women business enterprises, small businesses, and minority-owned firms are encouraged to apply. Notice of the RFP's availability should be placed in all appropriate newspapers and also be provided directly to companies that sub-grantees have researched and feel have the qualifications to meet the needs of the program.

The sub-grantee must develop written rating standards to be used to certify a contractor as eligible to participate in the program. This rating system must provide for a consistent and objective evaluation of the potential contractors.

Upon review and determination of eligibility, written notification should be sent to all bidding contractors indicating their acceptance or rejection to the RFP. The number of contractor(s) determined eligible shall be based on their overall rating. In addition, the sub-grantee's production needs and adequate coverage for the service area should be considered when selecting the number of eligible contractors. The sub-grantee may, at their discretion and depending on the reason for rejection, afford the contractor opportunity to revise their proposal to meet the requirements of the RFP. A notice of rejection should include a protest/appeal procedure with a cutoff date for those contractors not meeting the eligibility criteria.

Notice of acceptance to qualifying contractors should indicate a date and time of an initial subcontractors meeting which should include, but is not necessarily limited to, review of:

- program description;
- anticipated production and the amount of work that may be afforded to the subcontractors;
- content and requirements of the subcontract agreement;
- obligations of the sub-grantee and the subcontractor;
- scope of work/job specifications and technical requirements of the program;
- work scheduling, issuance of work orders, provisions for issuing and documenting change orders;
- clearance testing, quality inspection, callback procedures and final signoff; and
- invoicing and payment procedures.

At this time, or at a subsequent meeting, the price lists submitted by contractors for the items identified in the RFP will be reviewed and compared to the sub-grantee's cost analysis. The price list will be reviewed and negotiated as necessary to arrive at a fixed price for services to be provided by the subcontractors.

Once contractors have agreed to the terms and conditions set forth by the sub-grantee, a subcontract agreement may be executed. They should also be provided with any additional procedural or technical information, and any required forms which are necessary to fulfill the terms of the contract, including a copy of the *Georgia Weatherization Procedures Manual and the Georgia Weatherization Field Guide*.

If, after a sub-grantee has fulfilled all the requirements of a competitive bid process, either through sealed bids (formal advertising) or competitive proposal/negotiation, there is insufficient competition (i.e. no or only one bidder), the sub-grantee may proceed to secure services through noncompetitive procurement. In this case it is required that a cost analysis be conducted to determine the reasonableness of compensation requested by a contractor. Noncompetitive procurement, other than small purchases (less than \$5,000 over the life of the contract), must have prior approval of GEFA.

H. Inventory Control

The following are the general record maintenance and reporting requirements.

1. **Property and Equipment Inventory** - send copy to GEFA by the 10th of each month. Record all property, equipment and tools with an acquisition cost over \$300 dollars.
2. **Material Inventory Report** – send copy to GEFA at the end of contract, annually. Material inventory is to be maintained in a manner that will provide an audit trail from purchase to installation as well as material on hand.
3. **Daily Material Sign-out Sheet** - document removals from storage/warehouse, usage on jobs and returns on a daily basis. A physical count of equipment and materials is to be performed on a regular basis, no less than quarterly. Discrepancies between the recorded and actual amounts must be documented, reconciled, and signed off by the responsible supervisor.

Sign for acknowledgement of receipt & understanding

_____ (*Weatherization Sub-grantee Name*), certify that we have read and understand the Guidance contained in this notice. Signatures indicate receipt of this guidance and certify our sub-grantee will immediately begin adhering to the attached guidance.

_____ Executive Director _____ Date

Return to Debbie Smiley by October 31, 2014