|  |  |  |  |
| --- | --- | --- | --- |
| Appendix J - Checklist for Review of Procurement | | | |
| Name of Grantee: | | | |
| Name of Subrecipient (if applicable): | | | |
| Standard Agreement Number: | | | |
| Staff Consulted: | | | |
| Name(s) of Reviewer(s) |  | Date |  |

**NOTE: All questions that address requirements contain the citation for the source of the requirement. If the requirement is not met, the reviewer must make a “finding” of noncompliance.** Questions that do not contain the citation for the requirement do not address requirements but are included to assist the reviewer in understanding the Grantee’s program more fully and/or to identify issues that, if not properly addressed, could result in deficient performance. Negative conclusions to these questions may result in a "concern" being raised, but not a "finding.”

**Instructions:** Sections A through G cover the Grantee's compliance with 2 CFR Part 200. Section H summarizes the reviewer’s determinations regarding the Grantee’s need for technical assistance and/or training in this program function.

## Policies and Procedures

**Review Documents:**

* Review Policies & Procedures
* Review Documentation related to CDBG funded procurements
* Check that any prequalified lists used are up to date
* Review Subrecipient Agreement, if applicable
* Review sampling of Grantee’s procured contracts
* Review sampling of subrecipient’s procured contracts, if applicable

**Questions:**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1a.** | Does the Grantee have written procurement policies and procedures? **2 CFR §200.318(a)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **1b.** | Does the Grantee have policies and procedures specifying the acceptable methods of procurement? **2 CFR §200.318(a)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **1c.** | Do the Grantee’s procurement procedures reflect requirements and thresholds in compliance with Federal law? **2 CFR §200.318(a)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **1d.** | Is the Grantee maintaining oversight to ensure that contractors perform in accordance with the contracts or purchase orders, and that they follow applicable procurement policies and procedures? **2 CFR §200.318(b)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **1e.** | Does the Grantee have policies providing standards of conduct covering conflicts of interest for employees engaged in selection, award, and administration of contracts?  **2 CFR §200.318(c)(1)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **1f.** | Do policies and procedures avoid the acquisition of unnecessary or duplicate items? **2 CFR §200.318(d)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **1g.** | Was the contract awarded to a responsible contractor under the terms and conditions of the proposed procurement?  **2 CFR §200.318(h)** |  |  |  |  |  |  |  |
| Yes | No |
| **1h.** | Has the Grantee ensured that awards are not made to any party that has been excluded, disqualified or otherwise ineligible? **2 CFR §200.318(h)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |
| **2** | Ensure that the Grantee is following full and open competitions among prospective vendors and bidders in securing products and services. Confirm that the Grantee is conducting fair and clearly expressed competitive procurement practices. | | | | | | | |
| **2a.** | Were all procurements conducted with a full and open competition? (Meaning all procurements did not include: Unreasonable requirements placed on firms, unnecessary experience and excessive bonding, noncompetitive pricing practices, noncompetitive contracts, organizational conflicts of interest, specifying a brand name.)  **2 CFR §200.319(a)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **2b.** | Does any procurement include state, local, or tribal geographical preferences in the evaluation of bids or proposals, which are statutorily prohibited? **2 CFR §200.319(c)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |  |
| **2b.i** | If yes above, was the procurement for Architectural/Engineering services only? **2 CFR §200.319(c)** |  |  |  |  |  |  |  |
|  | Yes | No |  |
| **2c.** | Do all solicitations provide a clear and accurate description of the technical requirements for the material, product, or service to be procured? **2 CFR §200.319(d)(1)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |  |
| **2d.** | Do all solicitations identify all requirements that must be fulfilled and all other factors to be used in evaluating bids and proposals? **2 CFR §200.319(d)(2)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |  |
| **2e.** | Does the Grantee utilize prequalified lists? (Prequalified lists are lists of contractors who have been vetted and previously procured under federal procurement guidelines, and who can be invited to bid or propose on future procurements)? **2 CFR §200.319(e)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **2f.** | Are all prequalified lists current, and do they include an adequate number of qualified sources? **2 CFR §200.319(e)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |

## Contract Cost and Pricing

**Review Documents**

* Review cost/price analysis procedures
* Ensure that contract and price correspond to the Grantee’s award record and original budget/allocation of funding
* Check that Grantee has obtained a breakdown of proposed costs

**Questions:**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1** | Ensure that complete and thorough cost estimates and analysis are conducted and prioritized as a key component in the Grantee’s selection process. | | | | | | | |
| **1a.** | Was a cost or price analysis performed in connection with every procurement in excess of $250,000? (This includes contract modifications) **2 CFR §200.324(a)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |  |
| **1b.** | Was profit negotiated as a separate element of the price of each contract when there was insufficient competition? **2 CFR §200.324(a)** |  |  |  |  |  |  |
|  | Yes |  | No |  | |  |
| **1c.** | Were independent estimates made before receiving bids or proposals? **2 CFR §200.324(a)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **1b.** | Is contract pricing always based on a method other than the "cost-plus-a-percentage-of-cost" method? **2 CFR §200.324(d)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |

## Procurement Methods

**Review Documents**

* Examine the costs of goods/services provided; ensure consistency with federal cost thresholds
* Check that Grantee has obtained a breakdown of proposed costs
* Review name of vendor, contractor and/or subcontractor, date of procurement, funding source, contract price, description of procured goods/services

**Questions:**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1** | **Micro-Purchases** (if the micro-purchase method was not used, skip to Question #2) | | | | | | | |
| **1a.** | Does the purchase price of supplies or services exceed $10,000? **2 CFR §200.320(a)(1)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **1b.** | Were the micro-purchases distributed fairly amongst qualified suppliers? .  **2 CFR §200.320(a)(1)(i)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **Describe Basis for Conclusion:** | | | | | | | | |
| **2** | **Small Purchases** (if the small purchase method was not used, skip to Question #3) | | | | | | | |
| **2a.** | Does the Grantee have their own simple and informal procurement methods for securing services, supplies, or other property that do not cost more than $250,000? **2 CFR §200.320(a)(2)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **2b.** | Were there price or rate quotations obtained from an adequate number of qualified sources (at least 3 or more)?  **2 CFR §200.320(a)(2)(i)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |
| **3** | **Sealed Bids** (if the sealed bid method was not used, skip to Question #4) | | | | | | | |
| **3a.** | Did the Grantee follow the method for securing services (including construction), supplies, or other property exceeding $250,000 in aggregate? **2 CFR §200.320(b)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **3b.** | Is there a complete specification and accurate description of the service available? **2 CFR §200.320(b)(1)(i)(A)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **3c.** | Were there at least two or more responsible bidders for each procurement? (If no, explain in the basis for conclusion below) **2 CFR §200.320(b)(1)(i)(B)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **3d.** | Does the procurement lend itself to a firm, fixed price contract, and was the selection of the bidder made based on price?  **2 CFR §200.320(b)(1)(i)(C)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **3e.** | Were the Invitation for Bids (IFB)   * publicly advertised not less than 14 days prior to bid opening solicited from an adequate number of potential bidders, including trade publications (construction).   **2 CFR §200.320(b)(1)(ii)(A), GMM Chapter 5** |  |  |  |  |  |  |  |
| Yes | No |  |
| **3f.** | Did the Invitation for Bid (IFB) for construction services   * Include the applicable wage determination for the bid * Include all required federal contract provisions * include the federal construction contract provisions (HUD 4010)   **2 CFR §200. 320(b)(1)(ii)(B)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |  |
| **3g.** | Does the IFB, including specifications and attachments, define the items or services for bidders to properly respond?  **2 CFR §200. 320(b)(1)(ii)(B)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **3h.** | Were all bids opened publicly at the time and place referenced on the IFB? **2 CFR §200.320(b)(1)(ii)(C)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **3i.** | Was contract awarded in writing, at a firm fixed price, to the lowest responsible bidder? **2 CFR §200.320(b)(1)(ii)(D)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **3j.** | Is there a documented reason for any rejected bid (written legal or A/E opinion)? **2 CFR §200.320(b)(1)(ii)(D)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |
| **4** | **Competitive Proposals** (if the competitive proposal method was not used, skip to Question #5) | | | | | | | |
| **4a.** | Was the procurement not appropriate for the use of sealed bids? **2 CFR 200.320(b)(2)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |
| **4b.** | Was the Request for Proposals (RFP) publicized not less than fourteen days prior to the advertised date of proposal opening?  **2 CFR §200.320(b)(2)(i)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **4c.** | Were the proposals solicited from an adequate number of qualified sources? **2 CFR §200.320(b)(2)(i)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **4d.** | Is there a written method for conducting technical evaluations of the submitted proposals? **2 CFR §200.320(b)(2)(ii)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **4e.** | Was the contract awarded to the responsible firm whose proposal was most advantageous, after price and other factors were considered? **2 CFR §200.320(b)(2)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **4f.** | For proposals involving architectural/engineering professional services, were proposers evaluated with respect to factors other than price, and was the most qualified firm selected prior to negotiation of fair and reasonable compensation? **2 CFR §200.320(b)(2)(iv)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **4g.** | For procurement of architectural/engineering (A/E) professional services, is there a maintained list of qualified offerors that can respond to the RFP? |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |
| **5** | **Non-competitive Proposals** (if the competitive proposal method was not used, skip to Question #6) | | | | | | | |
| **5a.** | Did the aggregate dollar amount exceed the micro-purchase threshold? If no, use Section C, Micro-purchase above. **2 CFR 200.320(c)(1)** |  |  |  |  |  | | |
|  | Yes |  | No |
| **5b.** | Was the item available from only a single source?  **2 CFR 200.320(c)(2)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **5c.** | Was there an emergent or exigent need for the requirement that restricted a competitive solicitation? **2 CFR §200.320(c)(3)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |  |
| **5d.** | After solicitation, was it found that competition was determined inadequate? (e.g., only one proposal) **2 CFR §200.320(c)(5)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **5e.** | Did HCD authorize the non-competitive proposal in response to a written request PRIOR to the procurement? **2 CFR §200.320(c)(4)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |

## Affirmative Outreach

**Methodology**

* Examine procurement procedures to ensure that M/WBE participation is encouraged
* Review procedures to confirm that Small Business pools were used in selection
* Review Documentation and Activities related to Procurement

**Questions:**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1** | Ensure that procurement practices are inclusive of all eligible candidates, and that M/WBE and labor surplus firms are provided fair consideration. | | | | | | | |
| **1a.** | Were affirmative steps taken to ensure that M/WBE firms are used when possible?  **2 CFR §200.321(a)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **1b.** | Are there solicitation lists in the file that include these specific businesses, and were an adequate number of potential sources solicited?   * distributed to MBE/WBE businesses who are listed in the state [Supplier Clearinghouse](https://sch.thesupplierclearinghouse.com/) that provide related services? * advertised in non-English media, if applicable (based on four factor analysis and/or language access plan)   **2 CFR §200.321(b)(1), 2 CFR §200.321(b)(2)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **Describe Basis for Conclusion:** | | | | | | | | |
| **1c.** | Were total requirements divided, when economically feasible, into smaller tasks to permit maximum participation by Small, Minority, and Women owned businesses? **2 CFR §200.321(b)(3)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1d.** | Were delivery schedules established where the requirement permits, which encourages participation by Small, Minority, and Women businesses? **2 CFR §200.321(b)(4)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **1e.** | Were services and assistance utilized from organizations such as the Small Business Administration and the CA Department of General Services?  **2 CFR 200.321(b)(5)** |  |  |  |  |  | | |
|  | Yes |  | No |  |  |  |
| **1f.** | If subcontracts were granted, was the prime contractor required to take the affirmative steps above? **2 CFR §200.321(b)(6)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **Describe Basis for Conclusion:** | | | | | | | | |

## Contract Requirement

**Reviewed Documentation**

Review sampling of executed contracts (5-10% based on the number of contracts)

**Questions:**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1** | Ensure that all applicable provisions are included and adhered to within the Grantee’s contracts and subcontracts by marking Yes, No, N/A for each clause noted below: | | | | | | | |
| **1a.** | Remedies (Breach of Contract) - administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate (contracts of $250,000 or more) **2 CFR 200.338, 2 CFR 200 Appendix II (A)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1b.** | Termination for Cause and Convenience - Does the contract address termination for cause and for convenience by the Grantee including the manner by which it will be affected and the basis for settlement (contracts of $10,000 or more)? **2 CFR 200 Appendix II (B)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1c.** | Nondiscrimination - recipient must adhere to the following nondiscrimination provisions: The requirements of title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3600-20 (Fair Housing Act) and implementing regulations issued at subchapter A of title 24 of the Code of Federal Regulations; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8; Executive Order 11063 and implementing regulations at 24 CFR part 107; and the Age Discrimination Act of 1975 and implementing regulations at 24 CFR part 146. |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1d.** | §570.602 Section 109 of the Housing and Community Development Act – no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.  **24 CFR Part 6** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1e.** | [**State Nondiscrimination Clause**](https://www.law.cornell.edu/regulations/california/2-CCR-11105#:~:text=1.-,During%20the%20performance%20of%20this%20contract%2C%20contractor%20and%20its%20subcontractors,condition%2C%20genetic%20information%2C%20marital%20status)(all state contracts and subcontracts) |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1f.** | Rights to Inventions Made Under a Contract or Agreement  **2 CFR 200 Appendix II (F), 37 CFR Part 401** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1g.** | Clean Air Act and the Federal Water Pollution Control Act (contracts of $150,000 or more)  **2 CFR 200 Appendix II (G)** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1h.** | Debarment and Suspension  **2 CFR 200 Appendix II (H), Executive Orders 12549 and 12689** |  |  |  |  |  |  |  |
| Yes |  | No | N/A |
| **1i.** | Byrd Anti-Lobbying Amendment (contracts of $100,000 or more)  **2 CFR 200 Appendix II (I), 24 CFR Part 87** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1j.** | California Labor Code §1810 and §1811 - which stipulates that eight-hour labor constitutes a legal day's work, and §1812 which stipulates that the contractor and subcontractors shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the work performed under the terms of the contract.  **State of California Labor Code §1810 and §1811** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1k.** | Procurement of Recovered Materials - requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](https://www.ecfr.gov/current/title-40/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.  **2 CFR 200.323, 45 CFR 75.331** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1l.** | Domestic Preference for Procurements - to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.  **2 CFR 200.322** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1m.** | Drug Free Workplace Act of 1988 (contracts of $250,000 or more)  **41 U.S.C. 8102** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1n.** | Energy Efficiency -The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the California energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).  **Energy Policy and Conservation Act (Public Law 94-163), California Public Contract Code, Division 2, Part 3, Chapter 3.5** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1o.** | California Child Support Compliance Act- (contracts of $100,000 or more)  **California Public Contract Code, Division 2, Part 1, Chapter 7, Clause 7110** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1p.** | Section 504 of the Rehabilitation Act  **Rehabilitation Act of 1974, Executive Order 11063** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1q.** | Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970  **24 CFR Part 42 and 24 CFR 570.606** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1r.** | Architectural Barriers Act and the Americans with Disabilities Act  **Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157)** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1s.** | Contracting with Small and Minority Businesses –  **2 CFR 200.321** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1t.** | California's False Claim Act - imposes civil liability on any contractor presenting a false claim for money to a governmental entity or representative. **California Government Code §§ 12650-12656** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1u.** | Recordkeeping, Record Retention, and Access to Records  **24 CFR 570.490(b), 24 CFR 570.490(c), 24 CFR 570.490(d)** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1v.** | Reporting Requirements – contract languagethat requires the submittal of reports at specific intervals. |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1w.** | Conflict of Interest –  **24 CFR 570.489(h)** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **CONSTRUCTION CONTRACTS** | | | | | | | | |
| **1x.** | HUD 4010 Federal Labor Standards Provisions (06/22)  **HUD Handbook 1344.1** |  |  |  |  |  |  | |
| Yes | No |
| **1y.** | Equal Employment Opportunity – (for construction contracts) Does the contract include the equal opportunity clause provided under [41 CFR 60–1.4(b)](https://www.ecfr.gov/current/title-41/section-60-1.4#p-60-1.4(b)), in accordance with Executive Order 11246, “Equal Employment Opportunity” ([30 FR 12319](https://www.federalregister.gov/citation/30-FR-12319), [12935](https://www.federalregister.gov/citation/30-FR-12935), [3 CFR Part, 1964](https://www.ecfr.gov/current/title-3/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](https://www.ecfr.gov/current/title-41/part-60), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” **2 CFR 200 Appendix II (C), 24 CFR Part 6** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **1z.** | Davis Bacon Act and Copeland Anti-Kickback Act – (construction contracts of $2,000 or more, except housing construction of less than 8 units)Does the contract include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141–3144](https://www.govinfo.gov/link/uscode/40/3141), and [3146–3148](https://www.govinfo.gov/link/uscode/40/3146)) as supplemented by Department of Labor regulations ([29 CFR Part 5](https://www.ecfr.gov/current/title-29/part-5), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).  **2 CFR 200 Appendix II (D)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1aa.** | State Prevailing Wage – (for construction contracts) Did the contract include state labor standard provisions?  **Section 3700 of the California Labor Code** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1ab.** | Contract Work Hours and Safety Standards Act – (construction contracts of $100,000 or more). **2 CFR 200 Appendix II (E), 29 CFR Part 5** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1ac.** | Section 3 of the Housing and Community Development Act - (all construction contracts for projects that exceed $200,000 in aggregate)  **24 CFR Part 75** |  |  |  |  |  |  |  |
| Yes | No | N/A |
| **Describe Basis for Conclusion:** | | | | | | | | |

## BONDING and INSURANCE (Construction Contracts)

**Objective**

To determine if the jurisdiction is complying with Bonding requirements while administering programs with CDBG funds.

Bonding requirements are only applicable to construction contracts equal to or greater than the Simplified Acquisition Threshold (currently $250,000).

**Documents for review**

* Review contract value
* Calculate performance and payment bonds as correlated to the contract price
* Review Grantee’s receipt of a bid bond, at the time of bid, from the selected contractor for 5% of the total bid price
* Review Grantee’s receipt of payment and performance bonds at the time of contract execution for 100% of contract price
* Review the Grantee’s receipt of a Certificate of Insurance, naming the Grantee from the selected contractor to cover 100% of the contract price

|  |  |
| --- | --- |
| 1. For all contracts equal to or greater than $250,000: | |
| 1. Confirm that the use of performance and payment bonds are in correlation to the contract price. | |
| 1. For contracts or subcontracts exceeding $250,000, was there a bid guarantee from each bidder, at 5% of the bid price?   [2 CFR §200.325(a)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Is there a performance bond for 100% of the contract price? [2 CFR §200.325(b)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Is there a payment bond for 100% of the contract price? 2 [CFR §200.325(b)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Is there a Certificate of Insurance for 100% of the contract price? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusions:** | |

## Recordkeeping

**Documents for Review**

* Review records including, but not limited to, files on the rationale for selecting the methods of procurement used, selection of contract type, the contractor selection/rejection process, and the basis for the cost or price of a contract. Records should also include a justification for lack of competition when competitive bids or offers are not obtained, and the basis for the award cost or price.

**Questions:**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1** | Ensure that purchases are effectively documented from the identification of the need through final payment for goods or services. | | | | | | | |
| **1a.** | Does the Grantee maintain records sufficiently detailing the history and methods of procurement? **2 CFR §200.318(i)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1b.** | Is there documentation reflecting the selection of contract type?  **2 CFR §200.318(i)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1c.** | Is there documentation reflecting contractor selection or rejection? **2 CFR §200.318(i)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1d.** | Is there documentation reflecting the basis of the contract price? **2 CFR §200.318(i)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1e.** | If a time and materials contract been used, did the contract include a “not to exceed” amount? **2 CFR §200.318(j)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **1f.** | Are there procedures for settlement of issues put in place for protests and disputes? **2 CFR §200.318(k)** |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **Describe Basis for Conclusion:** | | | | | | | | |

## Summary

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **1** | Based on your review of the Grantee’s performance, is there a need for technical assistance concerning compliance with the procurement requirements of 2 CFR 200? (If yes, describe the need(s) below.) |  |  |  |  |  |  |  |
|  | Yes |  | No |  | N/A |  |
| **Describe Basis for Conclusion:** | | | | | | | | |