

PROCUREMENT GUIDE:

Protect your budget and prepare your community!



Prepared by:



The Ohio EMA
Grants Branch

... from the 30K-foot view

Purpose of this publication: To assist eligible Applicants in identifying and applying the required Federal regulations. (2 CFR 200) when using FEMA funds for the procurement of disaster preparedness resources, materials, and personnel to conduct planning, training, and exercise before an emergency and resource coordination during an emergency.

This publication is primarily intended for: Local governing authorities, eligible private nonprofits (PNPs) and tribal governing authorities who receive funding through the Emergency Management Performance Grant (EMPG), Hazardous Materials Emergency Preparedness grant (HMEP) and all Homeland Security Grant Programs (HSGPs) where 2 CFR 200 applies.

Methods of Procurement [2 CFR 200.320]

Type of Procurement	When to Use
<u>Micro-Purchases</u>	<ul style="list-style-type: none"> Applies to all items/services for an aggregate or total of <u>up to \$9,999.99</u>. Quotes are recommended to show reasonable cost but not required for reimbursement.
<u>Small Purchases</u>	<ul style="list-style-type: none"> Applies to all items/services from <u>\$10,000 to \$49,999.99</u> Requires 3 quotes
<u>Sealed Bids</u>	<ul style="list-style-type: none"> Applies to all items/services from <u>\$50,000 +</u> Requires a publicized Invitation to Bid (ITB) and at least 2 sealed bids. Awarded to the lowest responsible bidder.
<u>Competitive Proposals</u>	<ul style="list-style-type: none"> Applies to all items/services from <u>\$50,000 +</u> Requires a publicized Request for Proposals (RFP) and at least 2 competitive proposals. Awarded to the cost effective for your program.
<u>Non-competitive Proposals</u>	<ul style="list-style-type: none"> <u>Restrictive</u>. Must meet a number of requirements [2 CFR 200.320 (5)(f)] <u>Requires pre-approval</u> for grant compliance from Ohio EMA Will only be approved in exceedingly rare circumstances due to insufficient responses. (You must still show it went out competitively.)

For Sealed Bids, Competitive and Non-competitive Proposals, **ITBs and RFPs MUST be publicized** and you **MUST retain the full bid or proposal package** in your records as part of your procurement documentation.

That includes the **advertisement, specifications, solicitation, all bids/proposals and the justification for how the bid/proposal was awarded.**

Procurement REQUIREMENTS

Procurement Requirements between Federal, State, and Local

Category of Purchase	Federal Regulations [2 CFR 200.320]	Size of Contract	State Requirements [ORC125.05]	Local
<u>Materials, Supplies, and Services</u>	No quote requirement but quotes are recommended	Less than \$9,999.99	No quote requirement but quotes are recommended	Check with local authorities for local procurement rules
	Quotes required	\$10,000 - \$49,999.99	3 Quotes required	
		\$50,000 - \$99,999.99	Sealed Bids/Proposals	
		\$100,000 - \$149,999.99	Sealed Bids/Proposals, Pre-approval required above \$100,000	
Bid required	\$150,000 <			

The most restrictive rules apply; those are circled above. **Local rules may vary.**

If you follow the most stringent requirements between local, state, and federal regulations then you should be in adherence to the regulations of each of these jurisdictions

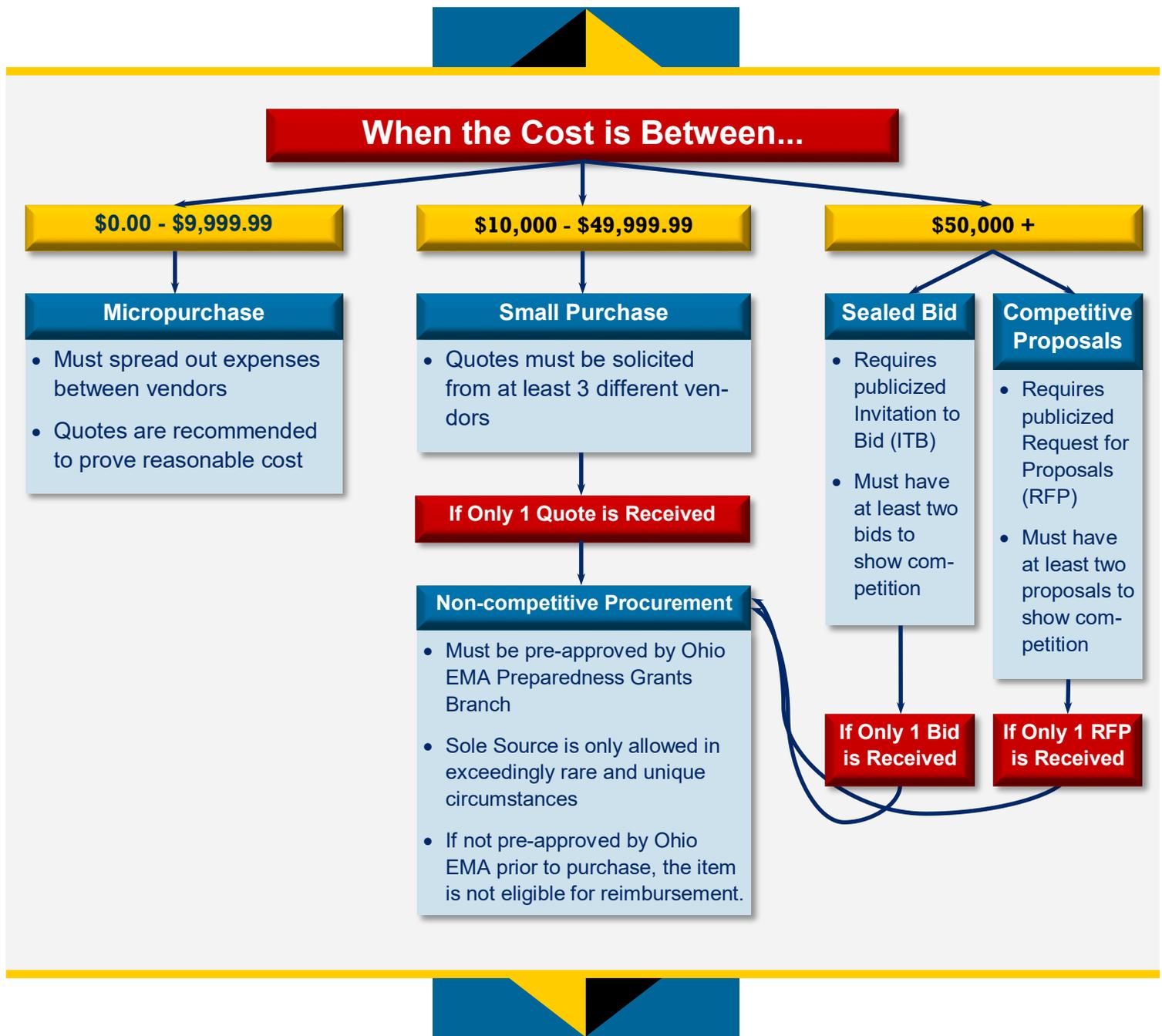
Types of Contracts

Contracts to Use	
<u>Lump Sum</u>	Contract for work within a prescribed boundary with a clearly defined scope + a total price.
<u>Unit Price</u>	Work done on an item-by-item basis, with cost determined per unit (e.g., box, each, roll).
<u>Time + Materials</u>	Time based on an hourly rate schedule + costs for needed materials. Generally preferred for consulting, project management, inspectors, monitoring contracts, etc.
Contracts to Avoid	
<u>Piggyback contracts</u>	Work done using another public entity's pre-existing contract. Highly discouraged by FEMA.

Contract Issues to keep in mind...

- Each time **a contract is renewed it is considered a new procurement** and must follow the procurement regulations.
- Every contract should have **clear and measurable deliverables** which are directly tied to how it is invoiced.
- A contract **MUST begin, end, be invoiced and paid within the grant period of performance** in order to be reimbursed.

Procurement Flowchart



Procurement Issues to keep in mind...

- You **may not specify quotes/bids/proposals for a certain brand, model, or manufacturer**. However, the distinction, "**compatible with**" and "**or equivalent**" can be made as an example when a description of the performance or other relevant requirements of the procurement is included.
- You must **keep** not only the response **quotes/bids/proposals** but **also the request documentation or solicitation** which conveyed to vendors what you need as part of your procurement documents
- For any issues with procurement, **pre-approval is necessary**. Procurement **cannot be approved retro-actively**.

Other Considerations...

The following considerations are important to show that you have adhered to 2 CFR 200 with regard to whom was encouraged to respond your solicitation:

Debarred and Suspended

It is a requirement of federal regulations that you ensure the vendors you are procuring from are responsible and qualified to provide the item or service. To this point you will need to **check the following websites to ensure the status of a vendor you plan to award a project** and **print a copy** of what you find.

- Federal: www.SAM.gov
- State: www.auditor.state.oh.us/findings.html

Socioeconomic Rules

Ensure that the **6 necessary affirmative steps** are followed for contracting with **small and minority businesses, women's business enterprises, and labor surplus area firms**. These steps are listed at 2 C.F.R. § 200.321 (b)(1-6).

Don't forget to document proof of these steps!

Contract Provisions/Clauses

When you are procuring a contract, it is important to ensure that **required clauses are included in your contract** per federal law and regulations. These can be found at **2 C.F.R. § 200.326 and 2 C.F.R. pt. 200, App. II**. If you have further questions please contact your local prosecutor.

Specifications

The specifications which you send out to vendors seeking a quote, bid, or proposal must meet the following requirements.

1. The solicitation must incorporate a **clear and accurate description** of the technical requirements. 2 C.F.R. § 200.319(c)(1).
2. The description of the technical requirements **must not contain features that unduly restrict competition**. 2 C.F.R. § 200.319(c)(1), 2 C.F.R. § 200.319(a)(1-7)
3. The solicitation **must identify ALL requirements** which the vendors must fulfill and all other factors to be **used in evaluating bids or proposals**. 2 C.F.R. § 200.319(c)(2).

For every procurement with federal funds there are **3 necessary aspects** which should guide your decisions. **Is the cost?**

Reasonable — nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. 2 C.F.R. § 200.404

Allocable — It meets the guidance and eligibility of the federal grant award; and, the goods or services involved are chargeable or assignable to that Federal award. 2 C.F.R. § 200.405

Allowable — The Federal award may be subject to statutory requirements that limit the allowability of costs. 2 C.F.R. § 200.408

FAQs

1. **What is procurement?** Under Federal guidelines found in **2 CFR 200.320**, procurement is the process of **acquiring** (buying, purchasing, renting/leasing or otherwise obtaining) **goods** and **services**.

2. **What are the three (3) most important points I need to know about FEMA procurement?**

- Must have a **competitive** process.
- **Stay away from prohibited contracts.**
- **DOCUMENT, DOCUMENT, DOCUMENT!**

3. **Where can I find guidelines for procurement?**

- **2 CFR 200.320** provides Federal guidance: <https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1-sec200-320>
- **State guidance** can be found at <http://www.ema.ohio.gov/PreparednessGrantsBranch.aspx>
- Ask **local authorities** for local purchasing guidelines.

4. **Can I specify all brand names in my specifications for quotes/bids and list “or equivalent” next to them?** Under 2 CFR 200.319 the open competition clause prevents a jurisdiction from specifying a brand except in a case where it is necessary to understand the functionality of an item. (i.e. Velcro, etc...)

5. **What is the 30K-foot process for procuring using Federal funds such as EMPG, HMEP, HSGP?**

FEMA accepts five (5) methods of procurement:

- **Micropurchase** procedures.
- **Small purchase** procedures.
- **Sealed bids.**
- **Competitive** proposals.
- **Non-competitive** proposals in limited situations

6. **What is “cost reasonableness”?** A cost that is both **fair** and **equitable** for the type of work performed under existing circumstances at the time the cost is incurred.

7. **Do I need to document all procurement? Yes.** Document the “**who, what, when, where, why and how much.**” **Without proper documentation you will not be reimbursed.**

8. **Is my procurement process subject to audit? Yes.** Build your records from the beginning so they are audit-ready. **Following improper procurement, poor record keeping is the #2 reason for failing to be reimbursed.**

What else do I need to know?

It is YOUR responsibility to comply with local, State, Federal – and your own – purchasing guidelines in order to get and keep all funds you were approved to receive.

Possible Procurement Penalties

- Withhold payment
- Deobligate funds
- Suspend grant
- Withhold future grants
- And MORE!