

# PROCUREMENT & CONTRACTING

## Table of Contents

CHAPTER 3: PROCUREMENT & CONTRACTING	
LOCAL PROCUREMENT POLICY.....	3
INITIAL PROCUREMENT DECISIONS.....	4
CONFLICT OF INTEREST.....	5
IN-HOUSE WORK (BY MUNICIPAL EMPLOYEES).....	8
PROCUREMENT AND CONTRACTING GENERAL PROVISIONS.....	8
DEBARRED AND INELIGIBLE CONTRACTORS.....	9
USE OF LOCAL, SMALL, MINORITY-OWNED and/or WOMEN-OWNED BUSINESSES.....	9
USE OF SECTION 3 BUSINESSES.....	10
LOBBYING RESTRICTIONS.....	10
BUILD AMERICA, BUY AMERICA (BABA) REQUIREMENTS.....	11
CONTRACTING FOR PROFESSIONAL SERVICES.....	14
PROCUREMENT METHOD OPTIONS.....	16
OPTION #1 – SMALL PURCHASE/SIMPLIFIED ACQUISITION & MICRO-PURCHASE OPTION [24 CFR 85.36 (d)(1)].....	16
OPTION #2 – COMPETITIVE SEALED BID OPTION [24 CFR 85.36 (d)(2)].....	19
OPTION #3 – COMPETITIVE PROPOSALS OPTION [24 CFR 85.36(d)(3)].....	21
OPTION #4 – NON-COMPETITIVE PROPOSALS/SOLE SOURCE.....	24
SUB-RECIPIENTS.....	25
STARTING THE WORK.....	25
RECORDS AND FILES.....	25
RELEVANT LAWS.....	26
CONTRACT LANGUAGE AND FORMS.....	26
ATTACHMENTS.....	27
ATTACHMENT 3-A1: SAMPLE PROCUREMENT POLICY #1.....	28
ATTACHMENT 3-A2: SAMPLE PROCUREMENT POLICY #2.....	29
ATTACHMENT 3-B: POTENTIAL CONFLICT OF INTEREST DISCLOSURE (TEMPLATE).....	31

# BCD CDBG Implementation Handbook

---

ATTACHMENT 3-B1: POTENTIAL CONFLICT OF INTEREST DISCLOSURE (SAMPLE) .....	32
ATTACHMENT 3-B2: POTENTIAL CONFLICT OF INTEREST DISCLOSURE FORM – INSTRUCTIONS FOR DEVELOPING THE FORM FOR UGLG’S / GRANTEE’S PROJECT .....	33
ATTACHMENT 3-C: 24 CFR 570.489(h) CONFLICT OF INTEREST CLAUSE .....	34
ATTACHMENT 3-D: LOBBYING CERTIFICATION (TEMPLATE) .....	35
ATTACHMENT 3-D1: LOBBYING CERTIFICATION (SAMPLE).....	36
ATTACHMENT 3-D2: LOBBYING CERTIFICATION (INSTRUCTIONS) .....	37
ATTACHMENT 3-E: DISCLOSURE OF LOBBYING ACTIVITIES FORM (TEMPLATE) .....	38
ATTACHMENT 3-F: OVERVIEW OF PROCUREMENT METHOD OPTIONS .....	40
ATTACHMENT 3-G: REQUEST FOR PROPOSALS (RFP) TEMPLATE.....	41
ATTACHMENT 3-H: REQUEST FOR QUALIFICATIONS (RFQ) TEMPLATE .....	44
ATTACHMENT 3-I: CONTRACT LANGUAGE/INSERTIONS SUMMARY .....	47
ATTACHMENT 3-J: CDBG BUILD AMERICA, BUY AMERICA ACT (BABA) REQUIREMENTS (CONTRACT INSERTION) .....	50
ATTACHMENT 3-K: WISCONSIN CDBG BABA PROJECT-SPECIFIC WAIVER REQUEST.....	51

## CHAPTER 3: PROCUREMENT & CONTRACTING

Units of General Local Government (UGLGs) must comply with all applicable federal, state and local procurement and contracting regulations and policies for the Community Development Block Grant (CDBG) project. Conflict of interest provisions within the Code of Federal Regulations must be addressed as part of procurement and contracting processes.

### LOCAL PROCUREMENT POLICY

The Division of Energy, Housing and Community Resources (DEHCR) requires all UGLGs to adopt written procurement/purchasing procedures **prior** to the *Grant Agreement* being executed for the CDBG monies. An UGLG must use procurement/purchasing procedures that are in conformance with federal, state and local laws and regulations. Federal regulations and standards are identified in 24 CFR 85, which sets forth the standards that are applicable to procurement for federal grants, cooperative agreements, and sub-awards to state, local, and Indian tribal governments. State and federal CDBG procurement requirements and guidance are provided in this chapter.

The UGLG must have written selection procedures for adequate procurement and contracting to ensure that:

1. The purchase of unnecessary or duplicate items is avoided. Where appropriate, an analysis should be made of lease vs. purchase alternatives [24 CFR 85.36(b)(4)];
2. Whenever possible, use of federal excess and surplus property, or of intergovernmental agreements for procurement or use of common goods and services should be considered as a way to foster greater economy and efficiency [24 CFR 85.36(b)(5) and (6)];
3. All purchase orders (and contracts) are signed by the UGLG's authorized official(s);
4. Items delivered and paid for are consistent with the purchase order and/or contract for the goods or services;
5. Timely payment to vendors occurs when the order is delivered, inspected, accepted and payment is authorized;
6. **A cost or price analysis is performed for every procurement action**, with contract modifications, and documentation to that effect is maintained in the UGLG's files. The method and degree of analysis is dependent on the facts surrounding the particular procurement method, but as a starting point, **the UGLG must make independent estimates before receiving bids or proposals [24 CFR 85.36(f)]**; and
7. Profit or fee is negotiated separately from price where competition is lacking or a cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of sub-contracting, the quality of past performance, and industry rates for the area [24 CFR 85.36(f)(2)].

**When the UGLG is using CDBG funds to cover the costs for a CDBG project purchase or contract, the UGLG must comply with its local procurement/purchasing policy(ies) and state and federal CDBG procurement/purchasing requirements summarized in this chapter; following the**

---

# BCD CDBG Implementation Handbook

---

**most restrictive of the three when there are differences. When not using CDBG funds to cover the costs for a CDBG project purchase or contract, then the UGLG must comply with its local procurement/purchasing policy(ies).**

See Attachments 3-A1 and 3-A2 for sample procurement/purchasing policies.

## INITIAL PROCUREMENT DECISIONS

Questions to consider when determining the procurement requirements that apply for each CDBG project activity include:

1. Will a third party be selected to perform all or part of the CDBG project activity, using some method of procurement, or will the work be performed in-house by municipal employees (either the UGLG's own employees or through a cooperative agreement with a partnering UGLG or other governmental entity)?
  - If the work will be performed in-house by municipal employees or a regional planning commission, then no procurement process is required to be completed.
  - If contracting with a third party, then some or all federal, state and local procurement requirements will apply.
2. Will the contract be for construction, professional services (e.g., engineering, grant administration, planning, auditing, legal, etc.), or some other non-construction related work/purchase (e.g., equipment, supplies, etc.), and will CDBG funds be used to fund all or part of the contract?
  - If the contract is a construction contract, competitive procurement,\* with adherence to federal, state, and local procurement regulations and policies, is required. Refer to the procurement options summarized later in this chapter to determine which option is most appropriate based on the anticipated amount of the construction contract.
  - If the contract is a professional services contract or other non-construction contract and CDBG funds are not funding any part of the contract, then the UGLG must ensure compliance with its local procurement policy.
  - If CDBG funds are funding all or part of the professional services contract or other non-construction contract, and the contract is *not* with another governmental entity and *not* with a quasi-governmental entity (e.g., Wisconsin Regional Planning Commissions and certain non-profit publicly/government-funded Economic Development Organizations), then the UGLG must ensure compliance with federal, state, and local procurement regulations and policies. Federal regulations require that professional services and other non-construction work/purchases funded with CDBG monies generally must be competitively procured.\* Refer to the procurement options summarized later in this chapter to determine which option is most appropriate based on the type of the professional services contract or other non-construction contract.

*\*Other exceptions for federal competitive procurement requirements are noted under the sole source procurement option summarized later in this chapter.*

# BCD CDBG Implementation Handbook

---

## CONFLICT OF INTEREST

### Applicability

The conflict of interest provision applies to “covered persons”, which may include any individual who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of an UGLG, or of any designated public agencies, or sub-recipients. Except for eligible administrative or personnel costs, the general rule for those individuals described above (who exercise or have exercised any functions or responsibilities with respect to CDBG activities and who are in a position to participate in a decision-making process or gain inside information with regard to such activities) is that they **may not**:

- Obtain a financial interest or benefit from the activity;
- Have an interest or benefit from the activity; nor
- Have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder.

This rule also applies during their tenure or for one year thereafter to themselves and to those individuals with whom there is a family or business tie, with “family” intended to mean immediate family. The definition of an “immediate family member” is defined differently within the state statutes than the federal regulations, with the federal definitions being broader. Under federal HUD definition, an “immediate family member” includes “...(whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person.”

### IMPORTANT NOTE!

The UGLG’s Chief Elected Official may not receive a CDBG loan or any financial interest from the CDBG activity.

To determine if there are any potential conflicts of interest, the UGLG should gather the above information at the point of bid submittal (for construction contracts), proposal submittal (for professional services contracts) or property identification (acquisition/relocation). Potential contractors or sellers should be asked to disclose family or business ties to persons involved with the CDBG project that may be potential conflicts of interest. The *Potential Conflict of Interest Disclosure* form (Attachment 3-B) may be used as a template for preparing a disclosure form. The *24 CFR 570.489(h) Conflict of Interest Clause* (Attachment 3-C) must be included in all bid packets for construction contracts.

### Conflict of Interest Reviews and Exceptions/Waivers

An exception/waiver to the federal conflict of interest provisions may be requested by the UGLG and requires DEHCR approval, and may require HUD approval, depending on the nature of the conflict of interest. Contact the assigned DEHCR Project Representative for further guidance on submitting a request for such exception/waiver. Prior to submitting an exception/waiver request, public disclosure and review of the potential conflict must occur. A legal opinion also

---

## BCD CDBG Implementation Handbook

---

must be obtained from the corporate or municipal counsel specifically stating that the interest for which the exemption is sought and awarding the contract would not violate state or local law.

The following steps are to be used to identify and review potential conflicts of interest, and request an exception/waiver to the federal conflict of interest provisions, if determined necessary, ***prior to awarding a contract to the contractor for which the potential conflict of interest has been disclosed:***

1. Review the contractor's potential conflict of interest disclosure (which may be on the *Potential Conflict of Interest Disclosure* form (Attachment 3-B – must be customized by the UGLG for use) or similar document provided by the UGLG to potential responders or confirmed responders of the procurement solicitation for the contract. The UGLG's form should have the "covered persons" from the UGLG associated with the CDBG project listed, such as the UGLG's officials and employees involved with the project, and other persons from other entities/organizations also associated with the project who had or will have a role in the procurement solicitation, contract award, reviewing or approving payment requests, and contractor oversight and compliance monitoring for the CDBG project.
2. Identify "covered persons" in relation to the conflict of interest restrictions for the CDBG project.
3. Consult legal counsel as needed prior to the taking the steps below. This is highly recommended to ensure state and local laws are followed for the potential conflict of interest disclosure and review process as listed below. Note that a written opinion from legal counsel will be required and must be submitted to DEHCR, as specified in #11 below.
4. Inform the company(ies)/firm(s) and persons for whom a potential conflict of interest has been identified that their names will be disclosed at the local Board/Council/Committee meeting.
5. Add "disclosure of potential conflicts of interest" as a discussion item on the Board/Council/Committee meeting agenda, and make the agenda available to the public. The meeting must be open to the public, with the proper public notice of the meeting given, following the UGLG's local policy/procedure and applicable state laws for giving notice for the UGLG's meetings.
6. Disclose and review the potential conflict of interest at the public meeting, disclosing the company(ies)/firm(s) and persons identified as having a potential conflict of interest and discussing the potential conflict publicly. Any covered person identified in the disclosure of the potential conflict of interest should not attend this meeting or must recuse their self from voting on a determination regarding the potential conflict of interest).
7. Adhere to the UGLG's applicable local policies (e.g., ethics and conflict of interest policies related to decision-making, voting, procurement and contracting) in reviewing all potential conflicts of interest;
8. If a contractor has been identified as having a potential conflict of interest, disclose the name of the person and company/firm, and the nature of the potential conflict of interest (family or business tie[s]) applicable to the project at the public meeting;
9. Ask all in attendance at the public meeting if there are any objections to awarding the contract to the contractor in question, with the objective being to review the potential

## BCD CDBG Implementation Handbook

---

conflict of interest publicly and determine if there are any objections to awarding the contract;

10. Include the disclosure and review of the conflict of interest and “covered persons” discussed in the meeting minutes. Make the meeting minutes public through posting the minutes in accordance with local policy for public meetings, through physical postings in prominent/visible locations in the community, on the UGLG’s website, and/or publishing in the local newspaper, etc. (following local policy).
11. The UGLG must obtain and submit to DEHCR a letter or email from legal counsel specifically stating that it is their legal opinion that the interest for which the conflict of interest exemption is sought and awarding the contract would not violate state or local law. Refer to the federal regulations [24 CFR 570.489(h)] for guidance on the requirements to request for a waiver to the conflict of interest (Attachment 3-C);
12. If the UGLG’s determination after reviewing the potential conflict of interest and the legal opinion is that no conflict of interest exists, then the UGLG is to submit to DEHCR:
  - a summary on municipal letterhead signed by the chief elected official summarizing the UGLG’s review, determination and basis of the determination regarding the potential conflict of interest;
  - the legal opinion letter from the UGLG’s legal counsel certifying that the UGLG’s contracting with the entity or person identified as having the potential conflict(s) would not violate state or local law;
  - proof of proper notice of the public meeting in which the potential conflict of interest will be publicly disclosed and discussed;
  - the agenda and minutes of the public board/council/committee meeting in which the potential conflict of interest was disclosed and reviewed;
  - proof of public sharing of the meeting proceedings (e.g., proof of public posting(s), website posting, and/or publication in the newspaper, etc. of the meeting minutes), following local policy for making minutes available to the public for public meetings.
13. DEHCR will review the documentation submitted by the UGLG for the potential conflict of interest review and make a determination of whether the Division concurs with or disagrees with the UGLG’s determination.
14. If the UGLG’s determination *or* the legal opinion *or* DEHCR’s opinion after reviewing the potential conflict of interest is that a conflict of interest *does* exist, then the UGLG cannot award the contract without a waiver. The UGLG may request a waiver to the federal conflict of interest provisions to award the contract by submitting to DEHCR:
  - a request on municipal letterhead signed by the chief elected official requesting a waiver to the federal conflict of interest provisions, with a summary of the UGLG’s review and determination regarding the conflict of interest, and the justification or basis on which the waiver should be allowed, citing all applicable factors for to be considered from the list provided in the federal regulations [24 CFR 570.489(h)(5)] (Attachment 3-C: *Conflict of Interest Clause*).
  - the legal opinion letter from the UGLG’s legal counsel stating that the interest for which the exemption is sought and awarding the contract would not violate state or local law;

# BCD CDBG Implementation Handbook

---

- proof of proper notice of the meeting in which the potential conflict of interest will be publicly disclosed and discussed;
  - the agenda and minutes of the board/council/committee meeting in which the conflict of interest was disclosed and reviewed; and
  - proof of public sharing of the meeting proceedings (e.g., proof of public posting(s) of the meeting minutes.
3. The UGLG should avoid signing the contract(s) in question until the exception/waiver decision has been issued by DEHCR (and HUD if applicable).

Please become familiar with the conflict of interest language included in the Code of Federal Regulations before undertaking any projects paid with CDBG funds. For more information, please refer to the *24 CFR 570.489(h) Conflict of Interest Clause* (Attachment 3-C) provided in this chapter. This *Clause* must be inserted in all contracts for the CDBG project.

## IN-HOUSE WORK (BY MUNICIPAL EMPLOYEES)

Officials of the UGLG who are acting in their official capacity are considered in-house and are eligible to be compensated for CDBG-related duties if certain conditions are met. For example, if the City Council has officially designated an attorney as City Attorney or an engineer as City Engineer, the individual or firm so designated becomes an official of the city. As an official of the city performing CDBG related duties, his/her legal or engineering service charges are eligible program costs to the extent that:

- They are reasonable for the services provided;
- They follow an appointment made in accordance with state and local laws; and
- The amount of compensation charged to the program will be based on payrolls documented and provided upon request in accordance with generally accepted practices of state and local governments, such as time sheets and other payroll records.

DEHCR will disallow costs for UGLGs that abuse these in-house provisions. For instance, appointments of City Engineers must not be made for the purpose of selecting an engineer to work on an anticipated CDBG project. The UGLG must show evidence that they have a history of appointment, unrelated to any current or anticipated CDBG project.

Refer to Chapter 8: *Financial Management* of this Handbook for details on in-kind donated goods and services. In-kind donated goods and services are tracked differently than in-house work.

## PROCUREMENT AND CONTRACTING GENERAL PROVISIONS

The federal standards for procurement and contracting are intended to ensure that supplies, equipment, construction, and other services are:

- Obtained as efficiently and economically as possible; and
- Procured in a manner that provides, to the maximum extent practical, open and free competition.



# BCD CDBG Implementation Handbook

---

Contract solicitations for goods and/or services must explain all requirements the bidder/offeror must meet for his or her bid/offer to be evaluated by the UGLG. Each solicitation must be based on a clear and accurate description of the material, product, or service to be procured and cannot contain features which unduly restrict competition.

Some of the situations considered to be restrictive of competition include, but are not limited to:

- Placing unreasonable qualifying requirements on firms;
- Requiring unnecessary experience or excessive bonding;
- Specifying only brand name products, instead of allowing an equal product;
- Non-competitive pricing practices between firms or affiliated companies; and
- Non-competitive awards to consultants on retainer contracts.\*

*\*Non-competitive awards to professional services contractors may be allowed when no CDBG funds will be applied to the costs, subject to compliance with the UGLG's local procurement policy, or when Sole Source requirements listed later in this chapter are met. However, competitive procurement for all contracting is recommended, even when not required.*

Awards are to be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the UGLG, price and other factors considered, as permitted for the method of procurement being applied. Any and all bids/offers may be rejected when it is in the UGLG's interest to do so. The UGLG must ensure that contracts are awarded only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. Considerations may include, but are not limited to compliance with regulatory requirements and public policy, contractor integrity, record of past performance, financial capabilities, and technical capabilities.

## DEBARRED AND INELIGIBLE CONTRACTORS

The UGLG must ensure that awards are not made to any party which is debarred or suspended, or is otherwise excluded from or ineligible for, participation in federal assistance programs under Executive Order 12549 "Debarment and Suspension" [24 CFR 85.35]. The UGLG must check the "exclusion" (i.e., debarment) status of all contractors and sub-contractors on the System for Award Management (SAM) at <https://sam.gov/content/home> **prior to the award** of any prime contract or sub-contract and prior to the amendment of any prime contract or sub-contract. Debarment checks must be made on the official federal SAM website. Private third parties have created sites that look very similar to the <https://sam.gov/content/home> website but they are not the official federal site and must not be used for SAM debarment checks for the CDBG program. The UGLG must also maintain a record of the debarment checks in the CDBG project file.

## USE OF LOCAL, SMALL, MINORITY-OWNED and/or WOMEN-OWNED BUSINESSES

Federal regulations make it very clear that UGLGs should make every effort to use local business firms and contract with small, minority-owned, and women-owned businesses in the procurement process. Specifically, the UGLG must take affirmative steps to use small firms, minority-owned business enterprise (MBE) firms, women-owned business enterprise (WBE) firms, or labor surplus area firms [24 CFR 85.36(e)]. For example, the UGLG should:

# BCD CDBG Implementation Handbook

---

- Incorporate such businesses in solicitation lists whenever they are potential sources;
- Ensure that such businesses are solicited when identified as potential sources;
- Divide procurement requirements, when economically feasible, to permit maximum participation of such businesses; and
- Require prime contractors, when sub-contracts are let, to take affirmative steps to select such firms.

Refer to Chapter 6: *Equal Opportunity, Fair Housing and Section 3* of this Handbook for additional details on MBE/WBE contracting related requirements.

## USE OF SECTION 3 BUSINESSES

In conformance with requirements of Section 3 of the Housing and Community Development Act of 1968, to the greatest extent feasible, the UGLG must award contracts for work to be performed to eligible businesses located in or owned by residents of the distribution area to ensure that employment and other economic opportunities generated by federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing [24 CFR 570.607(b)].

Refer to Chapter 6: *Equal Opportunity, Fair Housing and Section 3* and Chapter 9: *Reporting* of this Handbook for additional details on Section 3 contracting related requirements.

### IMPORTANT NOTE!

The desire to award contracts to local firms is **NOT** an acceptable justification for avoiding an open and competitive procurement process and encouraging participation of MBE/WBE firms and Section 3 firms in competing for contracts for the CDBG project.

## LOBBYING RESTRICTIONS

In accordance with Section 1352, Title 31, U.S. Code, no CDBG funds may be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than CDBG or other federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the CDBG contract, the UGLG or contractor representative shall complete the federal Standard Form-LLL in accordance with the instructions. This form is

---

## BCD CDBG Implementation Handbook

---

provided in this chapter as Attachment 3-E: *Disclosure of Lobbying Activities*, to report any lobbying activity.

The UGLG and all contractors and sub-contractors (including any hired for engineering and grants administration) for the CDBG project must include the language regarding lobbying restrictions (Attachment 3-D: *Lobbying Certification* and Attachment 3-E: *Disclosure of Lobbying Activities*) in all contract documents for all sub-award/sub-contracts at all tiers, and the UGLG and all contractors shall certify and disclose lobbying activities accordingly. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### BUILD AMERICA, BUY AMERICA (BABA) REQUIREMENTS

The Build America, Buy America (BABA) Act, 41 USC § 8301 note was enacted in the Infrastructure Investment and Jobs Act on November 15, 2021. The Buy America, Build America (BABA) requires that products purchased in connection with infrastructure projects funded by Federal financial assistance (FFA) programs must be produced in the United States (U.S.). This requirement is known as the “Buy America Preference (BAP)” (or “domestic procurement requirement”). The purpose of the BABA is to stimulate private sector investments in American manufacturing, bolster critical American supply chains, and support the creation of jobs so that America’s workers and firms can compete and lead globally.

The UGLG, prime contractors, and subcontractors (all tiers) must comply with the BAP and all applicable rules and notices, as may be amended, for any infrastructure project receiving CDBG funding and/or any other FFA unless a waiver or exemption of BABA applies to the project. Pursuant to the HUD’s [CPD-2023-12](#) notice, “[Public Interest Phased Implementation Waiver for FY2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance](#)” (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to the BAP, unless excepted by a waiver. Additional information is provided on the [HUD BABA website](#) at: <https://www.hudexchange.info/programs/baba/>.

The BAP requirement is in effect and applicable for CDBG infrastructure projects awarded in or after 2023 that contain iron and/or steel materials. [Note: Refer to 88 FR 17001 for BABA requirements for additional construction materials for projects awarded CDBG funds in or after 2024.] All iron and steel materials purchased for a CDBG infrastructure project awarded in 2023 or later must be produced in the U.S. unless the project or purchase qualifies for a waiver or exemption. Grantees and construction contractors subject to the BABA Act must maintain records that verify compliance with the BAP requirement for iron and steel materials and provide them to DEHCR, HUD, and/or other regulating entities upon request.

#### Applicability

The BABA Act – BAP requirement applies to infrastructure projects that:

- were awarded CDBG funds from DEHCR in or after 2023, except those qualifying for exemption or waiver; ***and***
- contain the use of iron or steel; ***and***
- have a total cost of greater than \$250,000 (including federal and non-federal funds).

---

# BCD CDBG Implementation Handbook

---

## BABA Definitions

Definitions of terms that have relevance to the interpretation and implementation of the BAP for CDBG are defined in the BABA statute and may be found in HUD Notice [CPD-2023-12](#), [2 CFR 184](#), and [OMB M-24-02](#) guidance. Key term definitions are also provided below.

- **Infrastructure project**: any project that includes any of the following activities, regardless of whether infrastructure is the primary purpose of the project ([2 CFR 184.3](#)):
  - construction,
  - alteration (including demolition, rehabilitation, renovation, redevelopment, etc.),
  - maintenance, or
  - repair.
  
- **Infrastructure**:
  - buildings and real property (including housing),
  - utilities,
  - water systems (drinking water and wastewater),
  - electrical transmission facilities and systems,
  - broadband infrastructure, and
  - transportation infrastructure.
  
- **Component**: an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into: a manufactured product; or, where applicable, an iron or steel product.
  
- **Construction materials**: articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of the definition shown below, except as provided in paragraph (2) of the definition shown below:
  - (1) The listed items are:
    - non-ferrous metals (i.e., metals other than iron and steel)
    - plastic and polymer-based products (including polyvinylchloride (PVC or vinyl), composite building materials, and polymers used in fiber optic cables);
    - glass (including optic glass);
    - fiber optic cable (including drop cable);
    - optical fiber;
    - lumber;
    - engineered wood; and
    - drywall.
  - (2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.
  
- **Iron or steel products**: articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.
  
- **Manufactured products**: articles, materials, or supplies used for an infrastructure project that:
  - are not iron or steel products; or

---

# BCD CDBG Implementation Handbook

---

- have been processed into a specific form and shape; or
- are combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies (i.e., when two or more materials are combined, they should be treated as a manufactured product).

## General Waivers and Exemptions

In accordance with the provisions of the HUD-issued general waivers, BABA ***does not*** apply to projects that:

- were awarded CDBG funds from DEHCR prior to 2023 (*contingent upon the project not being funded with other federal funds that are subject to BABA*);
- are non-infrastructure projects (e.g., Planning (PLNG), Public Services (PS), Economic Development (ED) loan assistance-only, etc.);
- are infrastructure projects with a total cost of \$250,000 or less (including all federal and non-federal funds);
- qualify for waiver under the “emergency and safety assistance” clause of BABA, including CDBG-DR, CDBG-CV, ESG-CV, and CDBG-MIT projects (*contingent upon the project not being funded with other federal funds that are subject to BABA*) [NOTE: ARPA funded projects **are** subject to BABA unless they qualify under another exemption or waiver.];
- have CDBG and/or other federal funding covered under BABA that in total is deemed to be *de minimus*, representing no more than 5% of the total cost of the project; and/or
- do not contain any iron or steel in the project scope.

### *HUD Phased Implementation General Waiver Provision:\**

In addition, in accordance with HUD’s phased implementation plan for BABA for the CDBG program and the terms of general waivers, the specification for iron and steel, manufactured products, and production materials purchased for infrastructure projects funded with a CDBG award from DEHCR (i.e., the Wisconsin State CDBG Small Cities Program) to be produced in the U.S. (unless another waiver or exemption applies) is only in effect and required on or after the dates listed below:

<u>Category:</u>	<u>Grantees/Projects Subject to BABA:</u>
Iron and steel products	Grant Award on or after 1/1/2023
Construction materials specifically listed in <a href="#">88 FR 17001</a>	Grant Award on or after 1/1/2024
Construction materials <i>not</i> specifically listed in <a href="#">88 FR 17001</a>	Grant Award on or after 1/1/2025
Manufactured products	Grant Award on or after 1/1/2025

*\*Other federal funding agencies may have different implementation plans with different phase-in dates. UGLGs, subrecipients, and contractors are required to meet the BABA requirements of all federal funding sources for the project.*

## Project-Specific Waivers

Waivers are explained in HUD Notice [CPD-2023-12](#) and [OMB M-24-02](#) and are required by the Infrastructure, Investments and Jobs Act (IIJA) sections 70901 through 70952 for exceptions not otherwise exempt to the BAP.

---

# BCD CDBG Implementation Handbook

---

In addition to the general waivers, project-specific waivers may be granted for projects for which the BAP would otherwise apply. There are three (3) categories of project-specific waivers, including the following:

1. **Public Interest:** The BAP would be inconsistent with the public interest.
2. **Nonavailability:** Covered materials are not produced in the U.S. in sufficient and reasonably available quantities or of a satisfactory quality.
3. **Unreasonable cost:** Inclusion of domestically produced covered materials will increase the cost of the overall project by more than 25%.

A contractor, subrecipient, or grantee/UGLG seeking a project-specific waiver must demonstrate the criteria for one or more of the project-specific waiver categories are met. Contractors and subrecipients are to consult with and submit waiver requests to the Grantee/UGLG. *Attachment 3-K: CDBG BABA Project-Specific Waiver Request Form* (linked on the DEHCR [CDBG Implementation Handbook](#) website under the “Chapter Attachments/Fillable Forms” section) must be completed and submitted with the required supporting documentation, following the instructions on the form, for project-specific waiver consideration.

The contractor or subrecipient must submit waiver request documentation to the CDBG Grantee/UGLG, and the CDBG Grantee/UGLG must verify that it is complete and submit it to DEHCR. DEHCR will review the documentation and if it is confirmed to be complete and in compliance, will submit the required waiver request information and additional documentation to the appropriate HUD representative for further review and processing. A waiver must be approved by DEHCR, HUD, and the federal [Made in America Office](#) (MIAO) prior to an entity proceeding with using any construction items subject to the BAP for the CDBG project that are not produced in the U.S. *[Note: The waiver request review process includes a public notice requirement and the issuance of a decision by HUD and the MIAO may require six (6) weeks or more.]*

If the project is funded with multiple Federal funding sources, to avoid duplicative waiver requests, the Grantee/UGLG and DEHCR are to coordinate with the “Cognizant Agency” (i.e., the entity contributing the greatest amount of Federal funds to the project) to process the waiver request. The Cognizant Agency is responsible for consulting with the other Federal agencies, publicizing the proposed joint waiver, and submitting the proposed joint waiver for review to the MIAO.

## **BABA Contracting Requirements**

For projects subject to the BABA Act and BAP requirement, the UGLG must include [Attachment 3-J: CDBG Build America, Buy America \(BABA\) Requirements \(Contract Insertion\)](#) in all contracts with prime contractors and ensure Attachment 3-J is in all subcontracts. UGLGs are to advise contractors that additional documentation verifying compliance with BABA may be requested and must be provided upon request.

## **CONTRACTING FOR PROFESSIONAL SERVICES**

### **Use of One Firm for Grant Administration and Professional Services such as Engineers, Planners or Architects**

# BCD CDBG Implementation Handbook

---

The use of a single firm for grant administration and engineering and/or planning professional services is generally acceptable provided that **separate procurement and contracting processes are conducted** for each of the separate services.

However, **a firm is not allowed to bid on or compete for a contract for services if the firm assists the UGLG with preparation of the procurement advertisement or assists in any aspect of the procurement process, as this presents a conflict of interest that gives an unfair advantage to the firm.** Assistance with the procurement process includes, but is not limited to the preparation of advertisements and/or RFPs/RFQs/RFBs for the services contract, or the evaluation and scoring of bids/proposals for the services contract.

## **Selection of Engineers, Planners or Administrative Consultants Prior to Grant Award**

Generally, the use of multi-services procurement and contracting is prohibited except:

- When local officials decide to procure the services of an engineer to assist them with both preparation of preliminary engineering plans (which may be prior to grant application) **and** project engineering (during the project) in the event their community is selected for grant award;
- When an UGLG wants to conduct one procurement process to cover both grant preparation **and** grant administration; and
- When an UGLG wants to conduct one procurement process to cover both CDBG-Planning (CDBG-PLNG) grant application preparation **and** CDBG-Planning (CDBG-PLNG) grant implementation.

Any agreement between the UGLG and the engineer or consultant that includes preliminary and project engineering, or grant writing/application preparation and grant administration services, would have to be contingent upon the award of CDBG funds. The UGLG must meet federal competitive procurement requirements when CDBG funds are being applied to the professional services contract costs.

Additional requirements the UGLG must take into consideration when procuring professional services, include:

- No loss-leader arrangements; and
- Types of professional service(s) needed for the CDBG project (for engineering, grant administration, planning, etc.).

Loss-leader arrangements violate federal regulations which require maximum open and free competition. Professional organizations also consider this practice unethical because it deprives the UGLG of the benefits that can result from competition among competent, professional firms.

**WARNING!**

**No loss-leader arrangements:** Federal regulations require maximum open and free competition. Loss-leader arrangements, in which a consultant offers to prepare a grant application or preliminary engineering estimates at reduced rates or at no cost *in return for* a future contract if the application is funded, are prohibited by federal regulations.

## PROCUREMENT METHOD OPTIONS

Depending on the type of the contract, scarcity of the item or service desired, and the amount of the contract or purchase, four (4) different options for procurement methods are available under the federal regulations:

- Small purchase(s)/simplified acquisition option;
- Competitive sealed bids option;
- Competitive proposals option; and
- Non-competitive proposals/sole source option.

These procurement method options are summarized below.

Refer to Attachment 3-F: *Overview of Procurement Method Options* for additional guidance.

### OPTION #1 – SMALL PURCHASE/SIMPLIFIED ACQUISITION & MICRO-PURCHASE OPTION [24 CFR 85.36 (d)(1)]

DEHCR considers procurement by small purchase (also referred to as simplified acquisition) procedures best suited for obtaining small quantities of goods/ products/supplies.

UGLGs are to follow their local, the state, or the federal policy for small purchase/simplified acquisition, *whichever is most stringent*.

The federal regulations allow for the small purchase/simplified acquisition method for the procurement of a good/service/supply/product that in aggregate totals \$250,000 or less for the CDBG project (per [2 CFR 200](#) [specified in [2 CFR 200.88](#), [2 CFR 320](#) and the [OMB update letter to federal agencies 6/20/18](#)]). The **state** requirements have been changed to be consistent with federal regulations for *non-construction* purchases/contracting, now specifying that the small purchase/simplified acquisition method is allowed for the procurement of a good/service/supply/product that in aggregate totals **\$250,000 or less for non-construction contracts/items, or \$25,000 or less for a construction contract for the CDBG project** (*with the exception of professional services contracting, for which a competitive proposal procurement method is allowed, regardless of the contract amount.*)

The Simplified Acquisition method includes a **micro-purchase** provision allowing for UGLGs to make purchases of **\$10,000 or less** without soliciting competitive quotations if the UGLG considers the price to be reasonable. Because a cost-price analysis is required for all procurement and purchasing transactions under [2 CFR 200](#), however, some type of documentation must be on file as verification that the price is reasonable.



# BCD CDBG Implementation Handbook

---

The State's CDBG program requirements must be followed, or the UGLG's local policy if it is more stringent.

**A procurement/purchase of an item may not be inappropriately broken up into smaller components solely to qualify for the small purchase/simplified acquisition approach.**

## NOTICE!

The Wisconsin CDBG Program's cost threshold for using the small purchase/simplified acquisition procurement method is now **\$250,000 for a non-construction item/contract\*** or **\$25,000 for a construction contract.\*\***

The provision for **micro-purchases of \$10,000 or less** allows for purchasing/contracting without soliciting competitive quotations if the UGLG considers the price to be reasonable.\*\*

*\*Professional services may be procured using the simplified acquisition, competitive bid, or competitive proposal procurement method, regardless of the contract amount.*

*\*\*These provisions are allowed, contingent upon the UGLG meeting local procurement policy requirements.*

In the small purchase method, competitive procurement is achieved through obtaining written price quotations. **The UGLG must document the request for the quotes and the receipt of at least three (3) price or rate quotations from qualified providers/vendors (except for micro-purchases of \$10,000 or less, as noted later in this section of the chapter).** The UGLG's small purchase/simplified acquisition procurement process documentation is to include:

- Correspondence with providers/vendors in which the request for quotes was made, including:
  - the vendor/provider information, including the company/firm/organization name, address, and their email address and/or phone number (whichever method(s) was/were used to contact the vendor/provider);
  - the solicitation email(s) and/or letter(s) used to request the quotes from providers/vendors (***the solicitations must be in writing, with the exception of micro-purchases, summarized later in this chapter, or when obtaining quotes online from website sources***);
  - a description of the good/service/product/supply to be purchased/procured, as presented in the requests for quotes;
  - the price quotes in writing from the providers/vendors for the quantity of the item sought (which must be the same for all quotes, comparing pricing for the same quantity of the item);
  - and the date of the quote as well as an expiration date for the quote if applicable (i.e., if a price quote is only valid for a limited number days, then this must be specified in the quote or in follow up email/written correspondence between the

# BCD CDBG Implementation Handbook

---

solicitor and the provider/vendor, and this documentation must be retained in the procurement file for the CDBG project).

Or, if obtaining the quotes **online through website sources**, then the following documentation must be on record:

- the printed record of the source of the quote with the specific website address and date of accessing the website shown (a website “link” is insufficient, given weblinks and website addresses can change – the printed/PDF record of the page where the information and web address appear must be on file), as record of the source and to verify the quotes were obtained in the same time period;
- the vendor/provider contact information as listed on the website;
- the details of the specific item(s) and quantity sought, as verification that the price comparisons are for comparable items and specifications.

*[Note: The request for quotes must include enough detail to solicit responses that will provide adequate information to verify that the quotes are for comparable products or services and of the same quantity. The online quote records must include enough detail to verify the price comparisons are for comparable products or services of the same quantity. Having a quote that is for a quantity of one of an item and having another quote that is for a quantity of 2 or more for an item is not acceptable. Having some quotes with the applicable shipping, handling, delivery and/or installation costs included and other quotes without those costs included may deem the quotes invalid. All price quotes obtained should include all costs associated with the purchase. An exception may be considered if one price quote, which has all applicable shipping, handling, delivery, and installation costs included, is already confirmed to be lower than the other price quotes obtained for items with the same product specifications and quantities but that do not have the shipping, handling, delivery, and installation costs included.]*

- Record of the cost/price analysis conducted, including the pricing information or quotes collected/documented;
- Record of written notifications given to each vendor/quote responder in writing, indicating whether they were or were not selected as the lowest responsive, responsible quote submitter for the contract or good/service/product/supply (which is only required if the quotes were solicited through direct communication with the providers/vendors); and
- The executed contract (if for construction or other services) or other written purchase agreement record (for goods/products/supplies) with the lowest responsible quote provider/vendor (or terms of sale and delivery and invoice/receipt for a product purchased through obtaining quotes online).
- **Micro-Purchase Exception:** If the cost of the good/product/service (including the total quantity needed for the CDBG project) will total less than \$10,000, then a cost-price analysis should be made but obtaining written competitive quotations is not required to meet CDBG requirements\* if the UGLG considers the price to be reasonable (consistent with the principles in [2 CFR 200.404](#)). Records of cost comparisons and/or other documentation that the UGLG used as the basis for deeming the cost to be “reasonable” must be on file.

*\*This exception is allowed contingent upon the UGLG complying with its own local procurement policies.*

## OPTION #2 – COMPETITIVE SEALED BID OPTION [24 CFR 85.36 (d)(2)]

DEHCR considers this method of procurement best suited to obtaining contractors for construction projects and for large quantities of goods or materials. The competitive sealed bid procurement method must be used by an UGLG for any prime construction contract that will exceed \$25,000 and a non-construction contract and/or a good/product/supply purchase that in aggregate will exceed \$250,000 for the CDBG project (*excluding professional services contracts, for which a competitive proposal process may be used, regardless of contract amount*).

This method of selection is to be made principally on the basis of price (fixed price contract using lump sum or unit price). Requirements for using the Competitive Sealed Bid method are as follows:

- The UGLG shall advertise the invitation for bids in publications of general circulation (i.e. newspapers, on-line bidding opportunities), solicit bids from an adequate number of known suppliers, providing them sufficient time to respond prior to bid opening;
- The UGLG shall comply with the advertisement for bids requirements set forth in the [Wis.Stats. 62.15\(3\)](#) for UGLGs for public works projects, including publishing a class 2 notice in accordance with [Wis.Stats. ch. 985](#).
- The advertisement for bids shall include:
  - complete and accurate specifications
  - pertinent attachments, and
  - clearly defined items or services needed, in sufficient detail for the bidders to properly respond;
- UGLGs may refer to the *Attachment 7-F: Advertisement for Bids* template provided as an attachment to *Chapter 7: Labor Standards* in the *CDBG Implementation Handbook* for guidance.
- Refer to Escalator Clauses in [Wis.Stats. 62.15\(1a\)](#), in providing for additional charges for labor and materials if as a result of general inflation the rates and prices of the same to the contractor increase during performance of the contract. Such escalator provision shall be applicable to all bidders and shall not exceed 15% of the amount of the firm bid nor the amount of the increase paid by the contractor. Each bid on a contract that is to include an escalator provision shall be accompanied by a schedule enumerating the estimated rates and prices of items of labor and materials used in arriving at the bid. Only as to such items as are enumerated shall an increased charge be allowed the contractor.
- Refer to Bonding specifications in [Wis. Stats. 779.14](#) and the bonding requirements specifically for “local government contracts” for “a public improvement or public works” in [Wis. Stats. 779.14\(1m\)\(d\)](#).
- Refer to Attachment 3-I: *Contract Language/Insertions Summary* for the CDBG language and insertions required to be in the construction bid packet, prime contract and sub-contracts. Also refer to *Chapter 7: Labor Standards* in the *CDBG Implementation Handbook* for additional guidance on construction bidding and contracting.
- Bids shall be opened publicly at the time and place stated in the invitation for bids;

# BCD CDBG Implementation Handbook

---

- The UGLG shall receive at least two (2) or more responsible bids for each procurement transaction; and
- If awarded, a firm fixed-price contract award shall be made in writing to the lowest responsible bidder. The UGLG can, however, decide not to make the award to any of the bidders. The UGLG may re-bid the project under certain conditions (i.e. bids are not responsible, or the proposals do not contain information necessary to evaluate the bids).

## NOTICE REGARDING BIDDING FOR MULTIPLE UGLG PROJECTS:

An UGLG may bid the CDBG project in conjunction with another non-CDBG project for economy and efficiency purposes, contingent upon the CDBG project components being clearly defined separately and the CDBG component costs being clearly distinguishable and separate from the non-CDBG component costs in the bid. Future pay applications/invoices from the contractor(s) awarded contract(s) must have CDBG project activities and costs clearly separated from the non-CDBG project activities and costs on the pay application/invoices.

Also note that federal regulations specify that a contract funded “in whole or in part” with federal funds must adhere to all federal procurement, contracting and labor standards requirements. Therefore, if one contract covers both CDBG project activities and non-CDBG project activities, then the contract is ultimately funded “in part” with federal funds. Therefore, the non-CDBG portion of the contract would be subject to federal labor standards requirements, in addition to the CDBG portion of the contract. All contract regulatory language and attachments required for bidding for CDBG projects must be included in the bid packet and contract.

## NOTICE REGARDING BIDDING THAT RESULTS IN A SOLE BIDDER:

A minimum of two (2) bids is generally required when selecting a contractor through the open bidding process. When there is a sole bidder, DEHCR requires that the project be rebid to attempt to obtain additional bids, or that justification be submitted for DEHCR’s review and approval *prior to* awarding the contract to a sole bidder.

The following must be submitted to DEHCR for consideration of an exception *prior to* awarding a contract to a sole bidder (whether it is a result of the initial bidding process or after a second bidding process):

1. A copy of advertisement for bids with the publisher’s affidavit of publication that verifies that the grantee used an open/public sealed bidding process following State Statutes (General and Counties: [Wis. Stats. 66.0901](#); Cities and other UGLG types (and potentially grantee sub-recipients, depending on the nature of the sub-recipient organization): [Wis. Stats. 62.15\(1\)](#)); and CDBG requirements (in the [CDBG Implementation Handbook](#); [24 CFR 85.36\(d\)\(2\)](#) and [2 CFR 200.320\(b\)\(1\)](#)), including appropriate notice for the bid advertisement, etc. [The advertisement for bids must allow for reasonable time for potential bidders to respond. Generally a minimum Class 2 notice must be given in accordance with [Wis. Stats. 985](#) (to comply with [Wis. Stats. 62.15\(3\)](#) for Public Works – Advertisement for Bids). Providing 30 days for a response is a best practice.]; **and**
2. An email from the UGLG confirming the documents specified in the [CDBG Implementation Handbook](#) as required for the construction contract/bid packet were included in the bid packet; **and**
3. A request from the UGLG (an email or signed letter) with a brief justification for awarding the contract to the single bidder, stating **all** circumstances and/or conditions that have led the

# BCD CDBG Implementation Handbook

---

grantee to determine that re-bidding the project would not serve the public's best interest, as it would:

- i. not render a different result (i.e., more bids and/or lower bids), providing an explanation; and/or
  - ii. cause undue hardship due to the need for completing the scope to meet public needs within a certain time period; and/or
  - iii. restrict timeliness of project completion; and/or
  - iv. not serve the public's best interest for one or more other reasons (state the other reason(s); **and**
4. A copy of a legal opinion from legal counsel (an email or signed letter) that verifies that the UGLG awarding the contract to the sole bidder complies with local and state laws for bidding and contracting for UGLG public works projects.

## **NOTICE REGARDING BID PACKET OMISSIONS AND/OR ERRORS:**

If the UGLG does not ensure all of the applicable required CDBG language and insertions, as summarized in Attachment 3-I: *Contract Language/Insertions Summary*, are in the bid packet or if the incorrect wage decisions were included in the bid packet, the UGLG may be required to repeat the bidding process for the contract. Contact the assigned DEHCR project representative to determine the implications and next steps to address the omission(s) and/or error(s).

Refer to Chapter 7: *Labor Standards* of this Handbook for additional guidance on procurement and contracting for construction contracts.

## **OPTION #3 – COMPETITIVE PROPOSALS OPTION [24 CFR 85.36(d)(3)]**

DEHCR considers this procurement method best suited to obtaining professional services.

This is normally conducted with more than one source submitting an offer, which results in either a fixed-price or not-to-exceed type contract being awarded. It is generally used when conditions are not appropriate for the use of sealed bids. This method has two sub-parts:

1. The **Request for Proposals** (RFP), and
2. The **Request for Qualifications** (RFQ).

The review process for both statements of qualification and proposals should be thorough, uniform, and well documented. DEHCR prefers that this review be conducted by a committee, council or board which, to the extent possible, includes persons with technical skills relevant to the requests being sought.

Reviewers should have no potential conflicts of interest with the firms or individuals under review, such as family relationships, close friendships, or business partnerships. Refer to 24 CFR 85.36(b) procurement standards, which in part states: *UGLGs and 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 UGLG or sub-Grantee shall participate in the selection, or awarding, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.*

---

# BCD CDBG Implementation Handbook

---

**Evaluation criteria** for reviewing competitive proposals should take into consideration:

- Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and the complexity of the project;
- Past record of performance on contracts with the municipality and other clients, including quality of work, timeliness, and cost control;
- Capacity of the firm to perform the work within time limitations, taking into consideration the current and planned workload of the firm; and
- Familiarity of the firm with the type of problems applicable to the project.

## RECOMMENDED BEST PRACTICE

The above-listed evaluation criteria can be scored using a weighted point system based on their importance. A side-by-side comparison of the numerical scores will determine which proposal receives the award.

### Request for Proposals (RFP)

Guidance and requirements for using the RFP procurement method:

- The *Request for Proposals* (RFP) must clearly and accurately state technical requirements for goods and services required. It should specify scope of services and the type of contract to be provided – cost reimbursement (also known as cost plus fixed fee), fixed price or per diem contract;
- The RFP also should specify the cost and pricing data required to support the proposed cost, anticipated start and completion dates, and evaluation criteria to be used in ranking proposals. The UGLG should make available pertinent materials, such as reports, maps and site plans to assist the bidders in preparing proposals. For complicated projects, the UGLG may wish to conduct a pre-bid conference to discuss the project, describe available materials and explain relevant CDBG contract regulations;
- The UGLG shall publicize the RFP (making the RFP publicly available, e.g., posting on the UGLG’s website, publishing in the newspaper, posting on one or more professional association website(s), etc.) and to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete;\*
- Proposals shall be solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement;
- The UGLG shall conduct a technical evaluation of the submitted proposals to identify the responsible offers;
- The UGLG shall award the contract to the most responsive, responsible contractor after price and other factors are considered through scoring the proposals according to the predetermined evaluation criteria specified in the RFP - the successful proposal/offer must clearly be the most advantageous source of the goods and services; and
- The UGLG shall follow its local procurement policy(ies) in approving and executing the contract.

# BCD CDBG Implementation Handbook

---

*\*The RFP may be sent to particular firms to encourage participation, in addition to making the RFP publicly available, but sending the RFP to the particular firms may not be in lieu of making the RFP publicly available.*

*A Request for Proposals (RFP) Template is provided in Attachment 3-G as additional guidance.*

## **Request For Qualifications (RFQ)**

For procurement involving architectural or engineering services, the UGLG may use the *Request for Qualifications* (RFQ) competitive proposal procedure whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. **In these instances, price is generally NOT used as a selection factor.** The UGLG should review and rank every statement of qualifications received.

Once the most-qualified firm is identified, only that firm is asked for a price proposal, which is subject to negotiation of a fair and reasonable price. If negotiations with the selected firm are unsuccessful, this process is repeated with the next highest-ranked firm, until a fair and reasonably priced contract can be awarded.

The qualifications-based (RFQ) competitive proposals method may not be used to purchase anything other than architectural and engineering services [24 CFR 85.36(d)(3)(v)].

**Note:** The federal rule cited in the previous paragraph, relating to the procurement of architectural and engineering (A/E) services, is quoted below verbatim:

*UGLGs and sub-Grantees 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. This 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.*

This language means that the Qualifications-based Procurement Method can be used only for A/E services. If an RFQ is issued, the competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

In addition, federal procurement regulations generally discourage the use of local geographical preferences in the evaluation of bids or proposals except where mandated by federal statutes, due to the resulting geographical restrictions unnecessarily placed upon open competition. However, in procuring architectural and engineering services, geographic location is permitted as a selection criterion provided this criterion results in an appropriate number of qualified firms still being allowed to submit their qualifications for review [24 CFR 85.36(c)(2)].

## **WARNING!**

**A Request For Qualifications (RFQ) cannot be used to purchase other types of services, even though A/E firms are potential sources to perform other types of services.**

# BCD CDBG Implementation Handbook

---

Guidance and requirements for using the RFQ procurement method:

- The *Request for Qualifications* (RFQ) must clearly and accurately state the qualifications submission content and format required;
- The RFQ also should specify relevant project details and evaluation criteria to be used in ranking qualifications submitted;
- The UGLG may invite specific firms (must be at least three (3)) to submit their qualifications and/or may publicize the RFQ – DEHCR recommends but does not require that the RFQ be advertised and made publicly available (e.g., posting on the UGLG’s website, publishing in the newspaper, posting on one or more professional association website(s), etc.); and recommends that the UGLG, to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete;
- The UGLG shall conduct a technical evaluation of the submitted qualifications to select the firm(s) to move forward with additional information and contract negotiations;
- The UGLG shall award the contract on the basis of/with consideration for factors in the pre-established evaluation criteria set forth in the RFQ, and after satisfactory negotiations with the selected firm;
- The UGLG shall document the basis for its determination of the most qualified competitor and the reasonableness of the contract price; and
- The UGLG shall follow its local procurement policy(ies) in approving and executing the contract.

*A Request for Qualifications (RFQ) Template is provided in Attachment 3-H as additional guidance.*

## **OPTION #4 – NON-COMPETITIVE PROPOSALS/SOLE SOURCE OPTION [24 CFR 85.36 (d)(4)]**

This method may be used only under very limited circumstances and **the UGLG must obtain DEHCR approval before using this method.** When requesting approval to use this method, the UGLG will have to demonstrate that another method of procurement was not feasible because:

- The item or service was only available from a single source;
- A public emergency or condition requiring urgency existed which did not permit the use of competitive procurement; or
- Competition was determined to be inadequate after solicitation of proposals from a number of sources.
- Refer to the guidance on page 20 within this chapter regarding sole bidders when using the competitive bid procurement method.

A request for a sole source procurement requires documentation that demonstrates one or more of the criteria above is/are met. For sole source *construction* contracting, the items listed for “sole bidder” contracting on page 20 within this chapter generally must be provided. Some exceptions may apply. Similar documentation is required for *non-construction* sole source contracting. Typically at least one and often two competitive procurement attempts must be made before sole source contracting would be considered for approval by DEHCR. Contact the assigned DEHCR Project Representative for additional guidance.



## SUB-RECIPIENTS

A sub-recipient is a public or private non-profit agency or organization receiving CDBG funds from a UGLG or another sub-recipient to undertake eligible activities. Another way to say this is that sub-recipients are organizations that are **provided** CDBG funds by an UGLG **for their use** in carrying out agreed-upon, eligible activities. Sub-recipients are subject to the same procurement requirements as the UGLG that was awarded the CDBG funds. There are some rare exceptions for certain types of contracting by certain types of sub-recipients such as developers. Contact DEHCR for guidance regarding sub-recipient requirements.

### WARNING!

The UGLG **must** consult with DEHCR prior to entering into an agreement with a sub-recipient.

## STARTING THE WORK

Refer to Chapter 8: *Financial Management* in this Handbook and the terms set forth in the UGLG's *Grant Agreement* with DEHCR for specifications for starting work and incurring costs for the CDBG project.

## RECORDS AND FILES

According to 24 CFR 85.36(b)(9), the UGLG shall maintain records to detail the significant history of a procurement and contracting.

The UGLG must establish procurement and contracting files and monitor the contracts to assure that the contracts are completed in a satisfactory and timely manner.

The Procurement and Contracting records\* must contain (if applicable):

- UGLG's local procurement policy;
- Descriptions of methods used to select consultants and contractors [e.g., Small Purchase/Simplified Acquisition, Request for Bids (RFB), Request of Qualifications (RFQ), Request of Proposals (RFP), Sole Source];
- Copies of quote requests (or quote source information and detailed item descriptions for quotes obtained online), RFB, RFQ and/or RFP documents used for soliciting responses from contractors/service providers, and related procurement correspondence/communications;
- Advertisement(s) for bids and/or proposals and proof of publication (as applicable);
- Quotes/bids/qualifications/proposals received and evaluation method(s) (e.g., quote review summary, bid tabulation detailed summary, qualifications review summary, proposal evaluation scoring summary, etc.);
- Cost/pricing comparison data/records;

# BCD CDBG Implementation Handbook

---

- Record of the approval by the governing body of the quote/bid/qualifications/proposal accepted/selected (as applicable);
- Contract(s) for goods/services;
- Conflict of Interest related documentation (e.g., contractors' potential conflict of interest disclosure statements, local policy regarding conflicts of interest, UGLG public disclosure and review records [if applicable], legal opinion(s) [if applicable], related correspondence to DEHCR [if applicable], request(s) for waiver [if applicable], etc.);
- Records of <https://sam.gov/content/home> exclusion/debarment searches;
- Signed Lobbying Certifications for all contractors; and
- Completed Disclosure of Lobbying Activities forms (as applicable).

*\*Contracting documents related to construction may be maintained in the Labor Standards files established for contractors and sub-contractors.*

The UGLG may be asked to provide procurement documentation related to any or all contractors, suppliers and service providers applicable to the project at any time. Improperly procured services or goods will be deemed ineligible costs and DEHCR may deny payment or prohibit the costs from being counted towards the UGLG's match funding for the CDBG project.

## RELEVANT LAWS

Procurement laws governing public construction in Wisconsin are as follows:

- Wisconsin State Statutes concerning advertising and bidding of public construction projects: 66.0901 (general); 59.03-04, 59.06 (county), 60.47 (town), 61.50 and 61.54 through 61.57 (village), and 62.15 (cities); and ch. 985.

Procurement and contracting laws governing federal CDBG projects are as follows:

- Code of Federal Regulations: 2 CFR 200, 24 CFR 85.36, 24 CFR 570.489, 24 CFR 570.503, 24 CFR 570.607, 24 CFR 570.609, 24 CFR 570.610, 24 CFR 570.611

Refer to Chapter 6: <i>Equal Opportunity, Fair Housing &amp; Section 3</i> and Chapter 7: <i>Labor Standards</i> of this Handbook for additional relevant laws for contracting.
---

## CONTRACT LANGUAGE AND FORMS

Contracts are to include the language and forms as indicated in the table provided in Attachment 3-I: *Contract Language/Insertions Summary*.

# BCD CDBG Implementation Handbook

---

## ATTACHMENTS

Attachments for this chapter are listed below.

ATTACHMENT 3-A1:	SAMPLE PROCUREMENT POLICY #1
ATTACHMENT 3-A2:	SAMPLE PROCUREMENT POLICY #2
ATTACHMENT 3-B:	POTENTIAL CONFLICT OF INTEREST DISCLOSURE (TEMPLATE)
ATTACHMENT 3-B1:	POTENTIAL CONFLICT OF INTEREST DISCLOSURE (SAMPLE)
ATTACHMENT 3-B2:	POTENTIAL CONFLICT OF INTEREST DISCLOSURE (INSTRUCTIONS)
ATTACHMENT 3-C:	24 CFR 570.489(h) CONFLICT OF INTEREST CLAUSE
ATTACHMENT 3-D:	LOBBYING CERTIFICATION (TEMPLATE)
ATTACHMENT 3-D1:	LOBBYING CERTIFICATION (SAMPLE)
ATTACHMENT 3-D2:	LOBBYING CERTIFICATION (INSTRUCTIONS)
ATTACHMENT 3-E:	DISCLOSURE OF LOBBYING ACTIVITIES FORM (TEMPLATE)
ATTACHMENT 3-F:	OVERVIEW OF PROCUREMENT METHOD OPTIONS
ATTACHMENT 3-G:	REQUEST FOR PROPOSALS (RPF) TEMPLATE
ATTACHMENT 3-H	REQUEST FOR QUALIFICATIONS (RFQ) TEMPLATE
ATTACHMENT 3-I	CONTRACT LANGUAGE/INSERTIONS SUMMARY
ATTACHMENT 3-J:	CDBG BUILD AMERICA, BUY AMERICA ACT (BABA) REQUIREMENTS (CONTRACT INSERTION)
ATTACHMENT 3-K:	WISCONSIN CDBG BABA PROJECT-SPECIFIC WAIVER REQUEST

## ATTACHMENT 3-A1: SAMPLE PROCUREMENT POLICY #1

The following represents the procurement policy of the City of Yourville:

1. Supplies required for operation of municipal offices and departments shall be purchased, as required, in accord with a purchase order issued by the respective department head. It is required that purchases be made from suppliers located in the community unless the price is not competitive or comparable to that of non-local suppliers.
2. Purchase of outlay items, such as vehicles and other equipment, shall be subject to competitive bidding. The department requesting purchase of these items shall make the request based on specifications. The responsible department head, along with the respective City Council committee, will determine which bid will be most advantageous to the community and make recommendation thereon to the full City Council. Bids may be invited by letter and/or by advertisement in the local newspaper.
3. Public Works Projects exceeding the Wisconsin Statutory amount of \$25,000 will be bid in accord with Wisconsin State Statutes. Specifications and/or plans and bid documents will be furnished to all requesting the same. Notice of bid taking shall be published in the local newspaper, Western Builder and Builders Exchange releases. All bids timely received will be opened and read at a pre-specified time and place open to the public. Bids will be received and recommendation thereon will be made to the City Council. The contract will be awarded to the responsible bidder submitting the lowest bid. Force account projects are exempt from this policy.
4. Professional Services contracts must be selected through a competitive process or thorough departmental review. Architectural and engineering services contracts exceeding \$100,000 must be selected through a Request for Qualifications (RFQ) process. Other professional services contracts exceeding \$25,000, excluding auditing and accounting services contracts, must be selected through a Request for Proposals (RFP) process. ALL professional services contracts must be approved by the City Council.

Jane Doe  
Jane Doe, Mayor

SAMPLE

August 1, 2023

Date

***[This sample procurement policy is provided as an example of a municipality's procurement policy only, and is not intended to represent, nor does it represent federal and state CDBG procurement requirements. The Unit of General Local Government (UGLG) must have a written procurement policy in place, which includes the UGLG's processes and requirements for procurement and contracting transactions, and is prepared to meet the UGLG's specific needs and requirements. When federal and state procurement requirements apply, the UGLG must adhere to its local policy as well as applicable federal and state requirements.]***

## **ATTACHMENT 3-A2: SAMPLE PROCUREMENT POLICY #2**

It shall be the policy that all supplies, materials, and/or services purchased by the Village of Yourville shall be obtained in a manner that is as efficient and economical as possible and procured in a manner that provides to the maximum extent practical, open and free competition.

### **Operating Supplies and Materials**

1. All purchases of operating supplies and materials shall require a purchase order issued from the Village Clerk. Whenever practical the employee and/or Department Head requesting the purchase shall acquire multiple quotes to ensure that the items are being purchased in the most economic manner. Purchases over \$500 shall require a minimum of three written price quotations. In the event that three quotes cannot be provided sufficient documentation explaining the limited number of suppliers shall be submitted.
  - a. Regular on-going budgetary purchases may be acquired with one annual purchase order with quotes received annually.
2. All purchases exceeding \$1,500 will require Village Board approval unless in the case of a true bona-fide emergency.

### **Professional Services**

1. Architectural and Engineering professional services shall be acquired through a Qualifications Based Selection Process whereby a firm or individual's qualifications are the primary determinant in the execution of a contract with said firm or individual.
  - a. Only after the firm has been selected may a cost be asked of the selected firm/individual. In the event that a fair and reasonable price cannot be negotiated the UGLG must select the next highest ranked firm/individual to negotiate with. This will continue until such negotiations result in an executed contract.
2. Other professional services shall be acquired through a process approved by the department head. Contracts exceeding \$5,000 must be approved by the Village Board prior to executing the contract.

### **Capital Projects/Outlay**

1. Purchase of outlay items, such as vehicles and other equipment shall be subject to competitive bidding. The Village shall issue bid specifications. The Village will select the most responsible and responsive bid price for said items.
2. Public Works Projects exceeding the Wisconsin Statutory amount of \$25,000 will be bid in accordance with Wisconsin State Statutes. Specifications and/or plans and bid documents will be furnished to all requesting same. Notice of bid taking shall be published in the local newspaper of record and an applicable Yourville Journal. All bids shall be received by the designated date and time in the mandatory format. All bids will be opened and read at a meeting open to the public. Bids will be reviewed and acted upon by the Village Board. Contracts will be awarded to the most responsible and responsive bidders.
3. The Village maintains the right to reject any and all bid proposals.

# BCD CDBG Implementation Handbook

---

## General Provisions

1. The Village of Yourville shall make every effort possible to use local business firms and contract with small, minority-owned, and women-owned businesses in the procurement process. The UGLG shall incorporate these businesses in the solicitation lists, divide procurement requirements when economically feasible to permit maximum participation of such businesses, and require prime contractors, when sub-contractors are used to take affirmative steps to select such firms.
2. The UGLG shall ensure that awards are not made to any party which is debarred or suspended, or is otherwise excluded from or ineligible for participation in federal assistance programs, when federal funds are utilized for a project.

*John Doe*

John Doe, Village President

August 1, 2023

Date

*Chris Smith*

Chris Smith, Village Clerk

August 1, 2023

Date

SAMPLE

***[This sample procurement policy is provided as an example of a municipality's procurement policy only, and is not intended to represent, nor does it represent federal and state CDBG procurement requirements. The Unit of General Local Government (UGLG) must have a written procurement policy in place, which includes the UGLG's processes and requirements for procurement and contracting transactions, and is prepared to meet the UGLG's specific needs and requirements. When federal and state procurement requirements apply, the UGLG must adhere to its local policy as well as applicable federal and state requirements.]***

**ATTACHMENT 3-B: POTENTIAL CONFLICT OF INTEREST DISCLOSURE (TEMPLATE)**

The current version of this Attachment is available on the [CDBG Implementation Handbook website](#) under the "Chapter Attachments/Fillable Forms" section.

**Division of Energy, Housing and Community Resources (DEHCR)**  
Community Development Block Grant – Potential Conflict of Interest Disclosure

**[NOTE: When the Grantee’s subrecipient is initiating the contracting (instead of the UGLG/Grantee), this form should be modified for use to include the subrecipient organization name, organizational executive board members, owners, administrative staff, etc.]**

**POTENTIAL CONFLICT OF INTEREST DISCLOSURE**

**<Insert Title of Project>**  
**<Insert Municipality Name, e.g. City of Yourville>**

Do you have family or business ties to any of the people listed below?  
Yes  No

If yes, please check the box next to the name(s) of the individual(s) and describe the relationship in the space provided below:

ELECTED OFFICIALS:

**<INSERT FULL NAME AND TITLE OF CHIEF ELECTED OFFICIAL>**  
 **<INSERT FULL NAME AND TITLE OF OTHER ELECTED OFFICIAL>**  
 **<INSERT FULL NAME AND TITLE OF OTHER ELECTED OFFICIAL>**

**<INSERT MUNICIPALITY TYPE>** ADMINISTRATION, DEPARTMENT HEADS AND/OR LEGAL COUNSEL:

**<INSERT FULL NAME AND TITLE>**  
 **<INSERT FULL NAME AND TITLE>**  
 **<INSERT FULL NAME AND TITLE>**

ENGINEERING AND CONSULTING FIRM(S):

**<INSERT FULL NAME, TITLE, AND BUSINESS/FIRM NAME>**  
 **<INSERT FULL NAME, TITLE, AND BUSINESS/FIRM NAME >**  
 **<INSERT FULL NAME, TITLE, AND BUSINESS/FIRM NAME >**

**Description of Relationship(s):**

\_\_\_\_\_

**Please Note:** The name of any contractor with a potential conflict of interest will be disclosed at the **<Insert Governing Body Name, e.g., City Council, Village or Town Board>** meeting in which bids are discussed. Potential conflicts of interest will be reviewed in accordance with 24 CFR 570.489(h).

\_\_\_\_\_  
Printed Name of Individual                      Title                      Signature

\_\_\_\_\_  
Name of Business/Firm/Company                      Date Signed [MM/DD/YYYY]

Potential Conflict of Interest Disclosure                      Form v.2021-09-01

**ATTACHMENT 3-B1: POTENTIAL CONFLICT OF INTEREST DISCLOSURE (SAMPLE)**

**POTENTIAL CONFLICT OF INTEREST DISCLOSURE**

Main Street Infrastructure Improvements Project  
CITY OF YOURVILLE

Do you have family or business ties to any of the people listed below?  
Yes  No

If yes, please check the box next to the name(s) of the individual(s) and describe the relationship in the space provided below:

ELECTED OFFICIALS:

- Jane Doe, Mayor
- Chris Smith, City Council President
- Sam Johnson, City Council Vice President
- Debra Hansen, City Council Secretary
- Cindy Howell, City Council Treasurer
- Jason Newsome, City Council Member
- Andrea Stetton, City Council Member
- Mark Mason, City Clerk/Treasurer

**SAMPLE**

CITY OF YOURVILLE ADMINISTRATION / MUNICIPAL STAFF:

- Danielle Dunkin, City Administrator
- Thomas Taylor, Public Works Director

ENGINEERING AND CONSULTING FIRMS:

- Sandra Jenkins, Engineer, A-Plus Engineering, Inc.
- David Dawson, Grant Administrator, ABC Consulting, Inc.

**Description of Relationship(s):**  
*Fr. Cousin to Chris Smith*

Please Note: The name of any contractor with a potential conflict of interest will be disclosed at the City Council meeting on March 21, 2022, in which bids are discussed. Potential conflicts of interest will be reviewed in accordance with 24 CFR 570.489(h).

<u><i>Jeffrey Smith</i></u> Printed Name of Individual	<u><i>Owner</i></u> Title	<u><i>Jeffrey Smith</i></u> Signature
<u><i>XYZ Construction Company, Inc.</i></u> Name of Business/Firm/Company		<u><i>2/23/2024</i></u> Date Signed [MM/DD/YYYY]

Potential Conflict of Interest Disclosure



**ATTACHMENT 3-B2: POTENTIAL CONFLICT OF INTEREST DISCLOSURE  
FORM – INSTRUCTIONS  
FOR DEVELOPING THE FORM FOR UGLG’S / GRANTEE’S PROJECT**

**Division of Energy, Housing and Community Resources (DEHCR)**

Community Development Block Grant – Potential Conflict of Interest Disclosure

**ATTACHMENT 3-B2: POTENTIAL CONFLICT OF INTEREST  
DISCLOSURE FORM – INSTRUCTIONS  
FOR DEVELOPING THE FORM FOR UGLG’S / GRANTEE’S PROJECT**

**INSTRUCTIONS TO UGLG / GRANTEE OR SUBRECIPIENT  
[These Are Not Instructions for a Prime Contractor]**

The conflict of interest provision applies to any individual who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a Unit of General Local Government (UGLG), or of any designated public agencies, or subrecipients. UGLGs are required to have measures in place to identify and review potential conflicts of interest for the UGLG’s contracting with entities (i.e., prime contractors, including construction and non-construction/professional services contractors) for the CDBG project. **The Disclosure of Potential Conflict of Interest form (or similar type of form developed by the UGLG) may be used as part of the process.** [NOTE: When the Grantee’s subrecipient is initiating the contracting (instead of the UGLG/Grantee), this form should be modified for use to include the subrecipient organization name, organizational executive board members, owners, administrative staff, etc.]

1. Enter the title of the CDBG project and the name of the UGLG.
2. Check the appropriate box regarding the prime contractor’s relationship (family and/or business) with the individuals listed.
3. **Elected Officials:** The UGLG should enter the names and titles of all elected officials **involved in approving the contract and/or the prime contractor’s future payment requests**. This should include the chief elected official as well as elected members of the governing body, and other elected officials (e.g. municipal Clerk/Treasurer, etc.) that will be **involved in approving the contract and/or the prime contractor’s future payment requests**. The contractor must note any family or business ties with any of the listed elected officials and briefly describe the relationship.
4. **Administration, Department Heads and Legal Counsel:** The UGLG should enter the names and titles of any appointed officials that will be **involved in approving the contract and/or the prime contractor’s future payment requests**. The contractor must note any family or business ties with any of the listed appointed officials and briefly describe the relationship.
5. **Professional Services:** If the UGLG has contracted with a firm for professional services such as engineering, grant administration or planning, and the firm will be **involved in approving the contract and/or prime contractor’s future payment requests**, the UGLG should list the contracted firm(s) information, including the primary contact’s name, title and firm name. The contractor must note any family or business ties with any of the listed professional services firms and briefly describe the relationship.
6. **Potential Conflict of Interest Review:** Enter the location, date and time of the meeting in which the review of any potential conflicts of interests disclosed by the potential prime contractor will occur.
7. The prime contractor is to sign and date the *Potential Conflict of Interest Disclosure* form and submit the form to UGLG when submitting the bid or proposal.
8. The UGLG is to maintain documentation of measures in place and any efforts made to identify and review potential conflicts of interests, which may include signed *Potential Conflict of Interest Disclosure* forms.

**NOTE:** The UGLG must follow the guidance in *Chapter 3: Procurement & Contracting of the CDBG Implementation Handbook* for reviewing potential conflicts of interest that are disclosed prior to awarding a contract to the disclosing entity.

*Potential Conflict of Interest Disclosure*

Form v.2021-09-01

## ATTACHMENT 3-C: 24 CFR 570.489(h) CONFLICT OF INTEREST CLAUSE

The current version of this Attachment is available on the *CDBG Implementation Handbook* website under the “Chapter Attachments/Fillable Forms” section at:

<https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>

<p style="text-align: center;"><b>24 CFR 570.489(h) CONFLICT OF INTEREST CLAUSE FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMS</b></p> <p style="text-align: center;"><b>Code of Federal Regulations Title 24 570.489(h) Program Administrative Requirements</b></p> <p><b>(h) Conflict of interest: (1) Applicability.</b> (i) <i>In the procurement of supplies, equipment, construction, and services by the States, units of local general governments, and sub-recipients, the conflict of interest provisions in paragraph (g) of this section shall apply.</i></p> <p>(ii) <i>In all cases not governed by paragraph (g) of this section, this paragraph (h) shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance with CDBG funds by the unit of general local government or its sub-recipients, to individuals, businesses and other private entities.</i></p> <p>(2) <b>Conflicts prohibited.</b> <i>Except for eligible administrative or personnel costs, the general rule is that no persons described in paragraph (h)(3) of this section who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this subpart or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.</i></p> <p>(3) <b>Persons covered.</b> <i>The conflict of interest provisions for paragraph (h)(2) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or sub-recipients which are receiving CDBG funds.</i></p> <p>(4) <b>Exceptions: Thresholds requirements.</b> <i>Upon written request by the State, an exception to the provisions of paragraph (h)(2) of this section involving an employee, agent, consultant, officer, or elected official or appointed official of the state may be granted by HUD on a case-by-case basis. In all other cases, the state may grant such an exception upon written request of the unit of general local government provided the state shall fully document its determination in compliance with all requirements of paragraph (h)(4) of this section including the state's position with respect to each factor at paragraph (h)(5) of this section and such documentation shall be available for review by the public and by HUD. An exception may be granted after it is determined that such an exception will serve to further the purpose of the Act and the effective and efficient administration of the program or project of the state or unit of general local government as appropriate. An exception may be considered only after the state or unit of general local government, as appropriate, has provided the following:</i></p> <p>(i) <i>A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and</i></p> <p>(ii) <i>An opinion of the attorney for the state or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate state or local law.</i></p> <p>(5) <b>Factors to be considered for exceptions.</b> <i>In determining whether to grant a requested exception after the requirements of paragraph (h)(4) of this section have been satisfactorily met, the cumulative effect of the following factors, where applicable, shall be considered:</i></p> <p>(i) <i>Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;</i></p> <p>(ii) <i>Whether an opportunity was provided for open competitive bidding or negotiation;</i></p> <p>(iii) <i>Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;</i></p> <p>(iv) <i>Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;</i></p> <p>(v) <i>Whether the interest or benefit was present before the affected person was in a position as described in paragraph (h)(3) of this section;</i></p> <p>(vi) <i>Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and</i></p> <p>(vii) <i>Any other relevant considerations.</i></p> <p style="text-align: left;"><small>Conflict of Interest Contract Clause</small></p> <p style="text-align: right;"><small>Attach03-C Form v2022-09-01</small></p>
--

**ATTACHMENT 3-D: LOBBYING CERTIFICATION (TEMPLATE)**

The current version of this Attachment is available on the *CDBG Implementation Handbook* website under the "Chapter Attachments/Fillable Forms" section at:

<https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>

**Division of Energy, Housing and Community Resources**  
Lobbying Certification

GRANTEE/UGLG\* NAME: \_\_\_\_\_  
DEHCR GRANT AGREEMENT #: \_\_\_\_\_

**LOBBYING CERTIFICATION**  
**FROM THE**

Municipality/UGLG\*  
 Contractor/Sub-Contractor  
 Subrecipient  
 Other (Specify entity type below): \_\_\_\_\_

The undersigned certifies, to the best of his/her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Name of Entity Completing This Form (i.e., UGLG\* / Company / Organization / Firm Name)

\_\_\_\_\_  
Signature of the Chief Elected Official, Owner, or Chief Executive Officer      \_\_\_\_\_ Title      \_\_\_\_\_ Date Signed

\_\_\_\_\_  
Printed/Typed Name of the Chief Elected Official, Owner, or Chief Executive Officer

\*UGLG: Unit of General Local Government

Lobbying Certification Attach03-D Form v.2023-09-01



### **ATTACHMENT 3-D2: LOBBYING CERTIFICATION (INSTRUCTIONS)**

Lobbying certifications must be obtained from the UGLG, all prime contractors, all sub-contractors and any firms hired for engineering services or grant administration.

1. Enter the name of the UGLG and the DEHCR Grant Agreement # in the space provided.
2. Check the appropriate box for the entity signing the *Lobbying Certification* form. Enter the name of the UGLG in the space provided if applicable. Check "Other" if the form is for a firm providing engineering or grant administration services and enter either "engineering" or "grant administration" in the space provided.
3. Enter the name of the UGLG or firm along with the name and title of individual signing the form.
4. Sign and date the form.
5. Place signed and dated *Lobbying Certifications* in the project's Procurement & Contracting or Labor Standards file.
6. Email copies of all signed *Lobbying Certifications* to the assigned DEHCR Project Representative when submitting the *Project Completion Report* (or during monitoring if requested by DEHCR).

Email: *Email to Assigned Project Representative or*  
[DOACDBG@wisconsin.gov](mailto:DOACDBG@wisconsin.gov)

# BCD CDBG Implementation Handbook

## ATTACHMENT 3-E: DISCLOSURE OF LOBBYING ACTIVITIES FORM (TEMPLATE)

(Fillable PDF form found at <https://www.hudexchange.info/resource/308/hud-form-sflll/> )

<b>DISCLOSURE OF LOBBYING ACTIVITIES</b>		Approved by OMB 0348-0046
Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 (See reverse for public burden disclosure.)		
<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: 4c	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known:	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):	
TEMPLATE		
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)
<div style="background-color: yellow; width: 100px; height: 50px; margin: 0 auto; display: flex; align-items: center; justify-content: center;"> <span style="font-weight: bold; font-size: 1.2em;">PRINT</span> </div>		

# BCD CDBG Implementation Handbook

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**ATTACHMENT 3-F: OVERVIEW OF PROCUREMENT METHOD OPTIONS**

**Permitted in accordance with 24 CFR 85.36(d)  
for Contracts & Purchases *funded in whole or in part* with CDBG Funds\***

(Revised 9/1/2023)

*\*Important Note: When CDBG funds are used to fund all or a portion of construction for a project, all construction contracts for the project are deemed to be funded in whole or in part with CDBG funds.*

<b>Small Purchase / Simplified Acquisition (&amp; Micro-Purchase)</b>	<b>Competitive Sealed Bid</b>	<b>Competitive Proposal</b>	<b>Non-competitive Proposal / Sole-Source</b>
<ul style="list-style-type: none"> <li>• Provision of 24 CFR 85.36(d)(1)</li> <li>• Allowed for <b>non-construction contracts/purchases \$250,000 or less</b> and <b>construction contracts \$25,000 or less</b></li> <li>• Typically for small quantity of goods/products/supplies or other small contracts</li> <li>• Written quotes from a <b>minimum of 3 providers/vendors required</b></li> <li>• Solicit in writing and receive quotes in writing; or obtain written quotes online</li> <li>• Quotes must be detailed enough to verify pricing is for comparable product(s)/ service(s) of the same quantities and dated to confirm they were obtained within same time period</li> <li>• Select lowest responsive, responsible quote</li> <li>• Inform all responders in writing of decision/selection (if contacted vendors directly to request quotes)</li> <li>• May require approval by governing body (subject to local procurement policy requirements)</li> <li>• <b>Micro-Purchase Exception:</b> If the cost of the good/product/service (including the total quantity needed for the CDBG project) will total <b>\$10,000 or less</b>, then solicitation of competitive quotations is not required as long as the UGLG considers the price reasonable. <i>This exception is allowed contingent upon the UGLG complying with its own local procurement policies.</i></li> </ul>	<ul style="list-style-type: none"> <li>• Provision of 24 CFR 85.36(d)(2)</li> <li>• <b>Required for non-construction contracts/purchases &gt;\$250,000 (excluding professional services) and construction contracts &gt;\$25,000</b></li> <li>• For construction contracts; and other large contracts or large quantities of goods/products/supplies</li> <li>• Principally based on price; fixed-price contract</li> <li>• Open public bidding required: public advertisement, adequate time to respond (minimum Class 2 Notice); bids opened publicly</li> <li>• Receive 2 or more responsible bids</li> <li>• Award in writing to lowest responsive, responsible bidder</li> <li>• Approval by governing body required</li> </ul>	<ul style="list-style-type: none"> <li>• Provision of 24 CFR 85.36 (d)(3)</li> <li>• Allowed and most appropriate for professional services</li> <li>• <b>Request for Qualifications [RFQ]</b> (permitted for <b>architectural / engineering (A/E) services only</b>) or <b>Request for Proposals [RFP]</b> (permitted for <b>any type of professional services</b>)</li> <li>• Must send RFQ to at least 3 firms</li> <li>• Must make RFP public through publishing online, in newspaper, and/or in other publication</li> <li>• Use pre-established evaluation criteria/scoring method</li> <li>• Committee review/ evaluation to select provider</li> <li>• Most qualified competitor selected; subject to negotiation of compensation</li> <li>• Awarded as fixed price or not-to-exceed contract</li> <li>• May require approval by governing body (subject to local procurement policy requirements)</li> </ul>	<ul style="list-style-type: none"> <li>• Provision of 24 CFR 85.36(d)(4)</li> <li>• Solicitation from one (1) source</li> <li>• Generally prohibited for CDBG projects</li> <li>• May be allowed under certain circumstances (e.g., under urgency or limited supplier provisions within the Code of Federal Regulations; sole bidder circumstances that meet the requirements set forth in this chapter)</li> <li>• DOA-DEHCR approval of sole source method <b>required prior to</b> contracting/purchase</li> <li>• Approval by governing body required</li> </ul>



## ATTACHMENT 3-G: REQUEST FOR PROPOSALS (RFP) TEMPLATE

The first three (3) pages of the RFP Template are provided below and on the following pages. An editable version of the complete RFP Template is available on the CDBG Implementation Handbook website under the “Chapter Attachments/Fillable Forms” section at: <https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>

### ATTACHMENT 3-G: REQUEST FOR PROPOSALS (RFP) TEMPLATE

This Request for Proposals (RFP) template serves as one example for applicants and grantees to utilize in developing their own RFP for procuring professional services. This template was developed through drawing upon ‘best practices’ from various entities’ RFPs. It may be adapted to fit the Unit of General Local Government’s (UGLG’s) needs and local procurement and contracting policy specifications.

This template includes required and recommended CDBG language and Attachments for professional services contracts (refer to Exhibit II); and additional suggested language that the UGLG may consider including by reference (for informational purposes only) if the services professional services being sought will include administering or managing a project involving construction oversight and/or acquisition/relocation activities.

The project description, work scope/scope of services and deliverables, proposal requirements and content, RFP submittal, RFP and project deadlines, minimum qualifications and scoring criteria are all determined by the UGLG, and not specified by the CDBG Program (although deadlines should be set by the UGLG to meet the requirements of the specific CDBG Program/award).

This RFP template may be adapted to meet the needs of the local government accordingly.

DELETE the “Template” language in the headers and footers, all yellow highlighting and instructional/guidance notes in blue font (which denote fields to be customized by the UGLG) throughout the UGLG in customizing the content) throughout this template, when customizing the document for the UGLG’s project.

#### Notes Regarding Competitive Procurement Requirements

A competitive procurement process, such as using a Request for Proposals (RFP) process, is required when using CDBG funding to cover all or part of professional services costs (refer to Chapter 3 of the CDBG Implementation Handbook for exceptions). The RFP must be made publicly available in some way (e.g., posted on the UGLG’s website, advertised in the newspaper, posted on one or more professional association website(s), etc.). The RFP may be sent to particular firms to encourage participation, but sending it to particular firms cannot be in lieu of making the RFP publicly available. The UGLG only needs to follow and comply with its local procurement/contracting policy(ies) when securing professional services that will not be paid with CDBG funding.

- The solicitation of Grant Application Preparation and Grant Administration services, OR Grant Administration and CDBG-PLNG Project Planning services may be procured using one RFP procurement process, or may be separated into two RFP processes to procure each service separately.
- Application preparation related services and costs cannot be paid or reimbursed with CDBG funds.
- Engineering and Architectural services cannot be paid or reimbursed with CDBG funds (with the exception of certain CDBG programs) and must be procured separately from Grant Administration services.
- Engineering and Architectural services may be procured using a separate RFP process or using a Request for Qualifications (RFQ) process. [Note: The RFQ process is only allowed for Engineering and Architectural services and cannot be used for any other type of professional services.]

Refer to Chapter 3: Procurement & Contracting in the [CDBG Implementation Handbook](#) for additional requirements and guidance regarding professional services procurement and contracting.

ATTACHMENT 3-G: REQUEST FOR PROPOSALS (RFP) TEMPLATE

**[Municipality Type]**

**[County Name] County, Wisconsin**

**REQUEST FOR PROPOSALS (RFP)**

**For**

**[Type(s) of Service(s), e.g., Grant Administration; Planning Services (for CDBG-PLNG); etc.]**

**[Name of Project]**

**A Community Development Block Grant**

**[CDBG Program, e.g., Planning (CDBG-PLNG); Public Facilities (CDBG-PF); Public Facilities for Economic Development (CDBG-PFED), etc.] Project**

**[Date]**

**TEMPLATE**

**ATTACHMENT 3-G: REQUEST FOR PROPOSALS (RFP) TEMPLATE**

**Table of Contents**

Invitation to Submit Proposal..... 4  
Introduction..... 4  
Contact Information..... 4  
Questions Regarding This RFP..... 4  
Addenda Interpretations..... 5  
Proposal Requirements..... 5  
Directions for Submittal..... 5  
Proposal Contents..... 6  
Proposal Format..... 6  
Selection Process Schedule..... 6  
Other Conditions of Proposal Submittal..... 6  
Scope of Services & Deliverables..... 7  
Evaluation and Selection..... 9  
EXHIBIT I..... 10  
Project Background and Project Area/Service Area Maps..... 10  
EXHIBIT II..... 11  
State and Federal Regulatory Requirements for CDBG-Assisted Projects..... 11  
EXHIBIT III..... 12  
Minimum Qualifications..... 12  
EXHIBIT IV..... 13  
Selection Rating System..... 13

TEMPLATE

## ATTACHMENT 3-H: REQUEST FOR QUALIFICATIONS (RFQ) TEMPLATE

The first three (3) pages of the RFQ template are provided below and on the following pages. An editable version of the complete RFQ Template is available on the CDBG Implementation Handbook website under the “Chapter Attachments/Fillable Forms” section at: <https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>

**ATTACHMENT 3-H: REQUEST FOR QUALIFICATIONS (RFQ) TEMPLATE**

*This Request for Qualifications (RFQ) template serves as one example for applicants and grantees to utilize in developing their own RFQ for procuring Architectural and Engineering professional services only. This template was developed through drawing upon ‘best practices’ from various entities’ RFQs. It may be adapted to fit the Unit of General Local Government’s (UGLG’s) needs and local procurement and contracting policy specifications.*

*This template includes required and recommended CDBG language and Attachments for professional services contracts (refer to Exhibit II); and additional suggested language that the UGLG may consider including by reference (for informational purposes only) if the architectural/engineering services being sought will include construction oversight.*

*The project description, work scope/scope of services and deliverables, qualification statement requirements and content, RFQ submittal and project deadlines, minimum qualifications and scoring criteria are all determined by the UGLG, and not specified by the CDBG Program (although deadlines should be set by the UGLG to meet the requirements of the specific CDBG Program/award).*

*This RFQ template may be adapted to meet the needs of the local government accordingly.*

**DELETE** the “Template” language in the headers and footers, all yellow highlighting and instructional/guidance notes in blue text (which denote fields to be customized by the UGLG and tips for the UGLG in customizing the content) throughout this template, when customizing the document for the UGLG’s project.

*Notes Regarding Competitive Procurement Requirements:*  
*A competitive procurement process, such as using a Request of Qualifications (RFQ) or Request for Proposals (RFP) process for Architectural and Engineering Services, is required when using CDBG funding to cover all or part of these professional services costs (refer to Chapter 3 of the CDBG Implementation Handbook for exceptions). Making the RFQ publicly available is not required – it may be sent to specific firms (a minimum of 3 firms); whereas making an RFP publicly available is required (refer to Chapter 3 of the Implementation Handbook for additional differences between the RFQ and RFP processes and requirements). The UGLG only needs to follow and comply with its local procurement/contracting policy(ies) when securing professional services that will not be paid with CDBG funding.*

- Architectural and Engineering Services must be procured and contracted separately from Grant Administration, Planning, and other professional services. The RFQ procurement process is not permissible for selecting a firm for grant administration or planning services for a CDBG project.*
- The solicitation of Architectural and Engineering Design services for the pre-construction phase and Architectural and Engineering services for the construction phase of a CDBG project may be carried out using one procurement process (using the RFQ or RFP process), or procured through separate procurement processes.*

*Refer to Chapter 3: Procurement & Contracting in the CDBG Implementation Handbook for additional requirements and guidance regarding professional services procurement and contracting.*

RFQ Template Page 1 Attach03-G Form v.2023-09-01

ATTACHMENT 3-H: REQUEST FOR QUALIFICATIONS (RFQ)  
TEMPLATE

**[Municipality Name]**

**[County Name] County, Wisconsin**

**REQUEST FOR QUALIFICATIONS (RFQ)**

**For**

**[Type of Services - Architectural and/or Engineering  
only] Services**

**[Name of Project]**

**A Community Development Block Grant**

**[CDBG Program, e.g., Public Facilities (CDBG-PF);  
Public Facilities for Economic Development (CDBG-  
PFED); etc.] Project**

**[Date]**

**TEMPLATE**

**ATTACHMENT 3-H: REQUEST FOR QUALIFICATIONS (RFQ)  
TEMPLATE**

**Table of Contents**

Invitation to Submit Qualifications ..... 4  
    Introduction ..... 4  
    Contact Information..... 4  
    Submission Instructions and Deadline..... 4  
    Other Conditions of Qualifications Submittal..... 4  
Scope of Services & Deliverables ..... 5  
Evaluation & Selection ..... 6  
EXHIBIT I ..... 8  
    Project Background and Project Area/Service Area Maps ..... 8  
EXHIBIT II ..... 9  
    State and Federal Regulatory Requirements for CDBG-Assisted Projects..... 9  
EXHIBIT III ..... 10  
    Minimum Qualifications ..... 10  
EXHIBIT IV ..... 11  
    Selection Rating System..... 11

**TEMPLATE**

## ATTACHMENT 3-I: CONTRACT LANGUAGE/INSERTIONS SUMMARY

The current version of this Attachment is available on the CDBG Implementation Handbook website under the “Chapter Attachments/Fillable Forms” section at:

<https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>

<b>Contract Language/Insertions Summary For Contracts Executed for a CDBG Project</b>	
<i>Must be included <u>within</u> construction bidding packets &amp; contracts (cannot be by reference only – for prime contractors and sub-contractors):</i>	
<b>Construction Contracts of \$10,000 or <u>LESS</u></b>	<b>Construction Contracts of <u>GREATER</u> Than \$10,000</b>
<ul style="list-style-type: none"> <li>• Attachment 3-C [24 CFR 570.489(h) Conflict of Interest Clause]</li> <li>• Attachment 3-J [CDBG Build America, Buy America Act (BABA) Requirements]</li> <li>• Attachment 6-B(1) or 6-B(2) (depending on when Grant was awarded to UGLG)<sup>***</sup> [Section 3 Contract Requirements]</li> <li>• Attachment 7-B<sup>**</sup> [Davis-Bacon and Related Acts (DBRA)]</li> <li>• Attachment 7-G<sup>**</sup> [Federal Labor Standards Provisions (4010)]</li> <li>• Applicable Davis-Bacon/Federal Wage Decision(s)<sup>**</sup> – <i>Must be in bid packets, in all prime contracts and sub-contracts, and posted at the project site, visible to all workers.</i></li> </ul>	<ul style="list-style-type: none"> <li>• Attachment 3-C [24 CFR 570.489(h) Conflict of Interest Clause]</li> <li>• Attachment 3-J [CDBG Build America, Buy America Act (BABA) Requirements]</li> <li>• Attachment 6-A<sup>**</sup> [Equal Opportunity Clause (EO 11246)]</li> <li>• Attachment 6-B(1) or 6-B(2) (depending on when Grant was awarded to UGLG)<sup>***</sup> [Section 3 Contract Requirements]</li> <li>• Attachment 6-C<sup>**</sup> [Affirmative Action Requirements (EO 11246)]</li> <li>• Attachment 6-D<sup>**</sup> [Federal Equal Employment Opportunity Clauses Construction Contract Specifications (EO 11246)]</li> <li>• Attachment 7-B<sup>**</sup> [Davis-Bacon and Related Acts (DBRA)]</li> <li>• Attachment 7-G<sup>**</sup> [Federal Labor Standards Provisions (4010)]</li> <li>• Attachment 7-R [MBE/WBE/DBE Web Resources]</li> <li>• Applicable Davis-Bacon/Federal Wage Decision(s)<sup>**</sup> – <i>Must be in bid packets, in all prime contracts and sub-contracts, and posted at the project site, visible to all workers.</i></li> </ul>

*UGLG = Unit of General Local Government (i.e., CDBG Grantee)*

<sup>\*</sup>Denotes the Attachment is recommended but not required. A document created by the Grantee with the same information and serving the same purpose may be used/provided to contractors as an alternative.

<sup>\*\*</sup>Required only if federal labor standards (i.e., Davis-Bacon and Related Acts [DBRA]) are applicable to the project.

<sup>\*\*\*</sup>Required if the Section 3 provisions of the Housing and Urban Development Act of 1968 (HCDA) (24 CFR 135 or 24 CFR 75) apply to the project. Section 3 is **not applicable only if** the Grantee was awarded CDBG funds for the project on or after 11/30/2020 **and** one of these two circumstances is true: 1) no construction activities (i.e., no new construction, rehabilitation, demolition, environmental remediation, etc.) are part of the project’s scope of work (e.g., Planning-Only and Public Services-Only projects, etc.); or 2) the grant award for the CDBG project is \$200,000 or less.

# BCD CDBG Implementation Handbook

## Contract Language/Insertions Summary For Contracts Executed for a CDBG Project (continued)

*Must be provided to construction contractors  
(prime contractors and sub-contractors, unless otherwise noted)  
either within bidding packet & contract (cannot be by reference only) or provided separately:*

Construction Contracts of \$10,000 or <u>LESS</u>	Construction Contracts of <u>GREATER</u> Than \$10,000
<ul style="list-style-type: none"> <li>• <b>Attachment 3-B*</b> [Conflict of Interest Disclosure Form – Prime contracts only. Must be customized for UGLG’s project. – <i>Recommended for prime contracts. This or some other potential conflict of interest disclosure mechanism is required.</i>]</li> <li>• <b>Attachment 3-D</b> [Lobbying Certification Form – <i>Must obtain signed copy from contractor at time of contract award.</i>]</li> <li>• <b>Attachment 3-E</b> [Disclosure of Lobbying Activities Form – <i>Must obtain signed copy from contractor if has lobbying activities to disclose.</i>]</li> <li>• <b>Attachment 7-I*</b> [Pre-Construction Meeting Items to be Discussed]</li> <li>• <b>Attachment 7-J*</b> [Pre-Construction Checklist for Contractors]</li> <li>• <b>Attachment 7-S**</b> [Employee Rights Poster – <i>Must provide to prime contractors to post at project site, visible to all workers.</i>]</li> <li>• <b>Attachment 7-T</b> [CDBG Project Sign Specs – <i>Must provide to prime contractors. A project sign must be at project site.</i>]</li> <li>• <b>Attachment 9-K(1) or 9-K(2)***</b> (depending on when Grant was awarded to UGLG) [Section 3 Employee Income Certification Form – <i>Provide to contractors in fillable MS Word format.</i>]</li> <li>• <b>Attachment 9-L***</b> [Section 3 Business Concern Certification Form – <i>Provide to contractors in fillable MS Word format.</i>]</li> <li>• <b>Attachment 9-M***</b> [Individual Contractor Section 3 Report Form – <i>Provide to contractors in MS Excel format. * This form or a similar document that collects the same data is required if Section 3 is applicable to the project.</i>]</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Attachment 3-B*</b> [Conflict of Interest Disclosure Form – Prime contracts only. Must be customized for UGLG’s project. – <i>Recommended for prime contracts. This or some other potential conflict of interest disclosure mechanism is required.</i>]</li> <li>• <b>Attachment 3-D</b> [Lobbying Certification Form – <i>Must obtain signed copy from contractor at time of contract award.</i>]</li> <li>• <b>Attachment 3-E</b> [Disclosure of Lobbying Activities Form – <i>Must obtain signed copy from contractor if has lobbying activities to disclose.</i>]</li> <li>• <b>Attachment 7-I*</b> [Pre-Construction Meeting Items to be Discussed]</li> <li>• <b>Attachment 7-J*</b> [Pre-Construction Checklist for Contractors]</li> <li>• <b>Attachment 7-S**</b> [Employee Rights Poster – <i>Must provide to prime contractors to post at project site, visible to all workers.</i>]</li> <li>• <b>Attachment 7-T</b> [CDBG Project Sign Specs – <i>Must provide to prime contractors. A project sign must be at project site.</i>]</li> <li>• <b>Attachment 9-K(1) or 9-K(2)***</b> (depending on when Grant was awarded to UGLG) [Section 3 Employee Income Certification Form – <i>Provide to contractors in fillable MS Word format.</i>]</li> <li>• <b>Attachment 9-L***</b> [Section 3 Business Concern Certification Form – <i>Provide to contractors in fillable MS Word format.</i>]</li> <li>• <b>Attachment 9-M***</b> [Individual Contractor Section 3 Report Form – <i>Provide to contractors in MS Excel format. * This form or a similar document that collects the same data is required if Section 3 is applicable to the project.</i>]</li> </ul>

UGLG = Unit of General Local Government (i.e., CDBG Grantee)

\*Denotes the Attachment is recommended but not required. A document created by the Grantee with the same information and serving the same purpose may be used/provided to contractors as an alternative.

\*\*Required only if federal labor standards (i.e., Davis-Bacon and Related Acts [DBRA]) are applicable to the project.

\*\*\*Required if the Section 3 provisions of the Housing and Urban Development Act of 1968 (HCDA) (24 CFR 135 or 24 CFR 75) apply to the project. Section 3 is **not applicable only** if the Grantee was awarded CDBG funds for the project on or after 11/30/2020 **and** one of these two circumstances is true: 1) **no construction** activities (i.e., no new construction, rehabilitation, demolition, environmental remediation, etc.) are part of the project’s scope of work (e.g., Planning-Only and Public Services-Only projects, etc.); or 2) the grant award for the CDBG project is \$200,000 or less.



# BCD CDBG Implementation Handbook

## Contract Language/Insertions Summary For Contracts Executed for a CDBG Project *(continued)*

<b>Must be included <u>within</u> professional services contracts (for prime contractors and sub-contractors – cannot be by reference only):</b>	
Professional Services and Other Non-Construction Contracts Funded in Whole or In Part with CDBG	Professional Services and Other Non-Construction Contracts <u>NOT</u> Funded with CDBG
<ul style="list-style-type: none"> <li>• Attachment 3-C [24 CFR 570.489(h) Conflict of Interest Clause]</li> <li>• Attachment 6-B(1) or 6-B(2)<sup>***</sup> (Depending on when Grant was awarded to UGLG) [Section 3 Contract Requirements]</li> </ul>	<ul style="list-style-type: none"> <li>• Attachment 3-C [24 CFR 570.489(h) Conflict of Interest Clause]</li> <li>• Attachment 6-B(1) or 6-B(2)<sup>***</sup> (Depending on when Grant was awarded to UGLG) [Section 3 Contract Requirements]*</li> </ul>

<b>Must be provided to professional services contractors (prime contractors and sub-contractors, unless otherwise noted) either <u>within</u> contract (cannot be by reference only) or provided separately:</b>	
Professional Services and Other Non-Construction Contracts Funded in Whole or In Part with CDBG	Professional Services and Other Non-Construction Contracts <u>NOT</u> Funded with CDBG
<ul style="list-style-type: none"> <li>• Attachment 3-B* [Conflict of Interest Disclosure Form – Prime contracts only. Must be customized for UGLG’s project. – <i>Recommended for prime contracts. This or some other potential conflict of interest disclosure mechanism is required.</i>]</li> <li>• Attachment 3-D [Lobbying Certification Form – <i>Must obtain signed copy from contractor at time of contract award or upon CDBG Award if contract was executed prior to CDBG award.</i>]</li> <li>• Attachment 3-E [Disclosure of Lobbying Activities Form – <i>Must obtain signed copy from contractor if has lobbying activities to disclose.</i>]</li> <li>• Attachment 9-K(1) or 9-K(2)<sup>***</sup> (depending on when Grant was awarded to UGLG) [Section 3 Employee Income Certification Form – <i>Provide to contractors in fillable MS Word format.</i>]</li> <li>• Attachment 9-L<sup>***</sup> [Section 3 Business Concern Certification Form – <i>Provide to contractors in fillable MS Word format.</i>]</li> <li>• Attachment 9-M<sup>***</sup> [Individual Contractor Section 3 Report Form – <i>Provide to contractors in MS Excel format. * This form or a similar document that collects the same data is required if Section 3 is applicable to the project.</i>]</li> </ul>	<ul style="list-style-type: none"> <li>• Attachment 3-B* [Conflict of Interest Disclosure Form – Prime contracts only. Must be customized for UGLG’s project. – <i>Recommended for prime contracts. This or some other potential conflict of interest disclosure mechanism is required.</i>]</li> <li>• Attachment 3-D [Lobbying Certification Form – <i>Must obtain signed copy from contractor at time of contract award or upon CDBG Award if contract was executed prior to CDBG Award.</i>]</li> <li>• Attachment 3-E [Disclosure of Lobbying Activities Form – <i>Must obtain signed copy from contractor if has lobbying activities to disclose.</i>]</li> <li>• Attachment 9-K(1) or 9-K(2)<sup>***</sup> (depending on when Grant was awarded to UGLG) [Section 3 Employee Income Certification Form – <i>Provide to contractors in fillable MS Word format.</i>]</li> <li>• Attachment 9-L<sup>***</sup> [Section 3 Business Concern Certification Form – <i>Provide to contractors in fillable MS Word format.</i>]</li> <li>• Attachment 9-M<sup>***</sup> [Individual Contractor Section 3 Report Form – <i>Provide to contractors in MS Excel format. * This form or a similar document that collects the same data is required if Section 3 is applicable to the project.</i>]</li> </ul>

UGLG = Unit of General Local Government (i.e., CDBG Grantee)

\*Denotes the Attachment is recommended but not required. A document created by the Grantee with the same information and serving the same purpose may be used/provided to contractors as an alternative.

\*\*Required only if federal labor standards (i.e., Davis-Bacon and Related Acts [DBRA]) are applicable to the project.

\*\*\*Required only if the Section 3 provisions of the Housing and Urban Development Act of 1968 (HCDA) (24 CFR 135 or 24 CFR 75) apply to the project. Section 3 is **not applicable only** if the UGLG was awarded CDBG funds for the project on or after 11/30/2020 **and** one of these two circumstances is true: 1) no construction activities (i.e., no new construction, rehabilitation, demolition, environmental remediation, etc.) are part of the project’s scope of work (e.g., Planning-Only and Public Services-Only projects, etc.); or 2) the grant award for the CDBG project is \$200,000 or less.

## ATTACHMENT 3-J: CDBG BUILD AMERICA, BUY AMERICA ACT (BABA) REQUIREMENTS (CONTRACT INSERTION)

The current version of this Attachment is available on the CDBG Implementation Handbook website under the “Chapter Attachments/Fillable Forms” section at:

<https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>

### COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) BUILD AMERICA, BUY AMERICA (BABA) ACT REQUIREMENTS FOR CONSTRUCTION CONTRACTORS AND SUBCONTRACTORS

#### BACKGROUND INFORMATION

The Build America, Buy America (BABA) Act, 41 USC § 8301 note, was enacted in the Infrastructure Investment and Jobs Act on November 15, 2021. The BABA Act requires that products purchased in connection with infrastructure projects funded by Federal financial assistance (FFA) programs must be produced in the United States (U.S.). According to the BABA Act, “none of the funds made available for a Federal Financial Assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” This requirement is known as the “Buy America Preference (BAP)” (or “domestic procurement requirement”). The purpose of the BABA Act is to stimulate private sector investments in American manufacturing, bolster critical American supply chains, and support the creation of jobs so that America’s workers and firms can compete and lead globally.

Additional information is provided on the HUD BABA website at:

<https://www.hudexchange.info/programs/baba/>

#### REQUIREMENTS

The prime contractor and all subcontractors (all tiers) must comply with the requirements of the BABA Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, as applicable to the Community Development Block Grant (CDBG) infrastructure project. Pursuant to the U.S. Department of Housing and Urban Development’s (HUD’s) CPD-2023-12 notice, “Public Interest Phased Implementation Waiver for FY2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance” (88 FR 17001), any funds obligated by HUD on or after the applicable BAP implementation dates listed in 88 FR 17001 are subject to BABA requirements, unless excepted by a waiver. General waivers and project-specific waiver categories are specified in 88 FR 17001.

All iron and steel materials purchased for a CDBG infrastructure project must be produced in the U.S. unless the project or purchase qualifies for a waiver or exemption. The contractor must maintain records that verify compliance with the BAP for iron and steel materials and provide them to the CDBG Grantee/unit of general local government (UGLG), State of Wisconsin Department of Administration (DOA) – Division of Energy, Housing and Community Resources (DEHCR), HUD, and/or other regulating entities upon request. General waivers and project-specific waiver categories are specified in 88 FR 17001.

Iron and steel, manufactured products, and production materials purchased for infrastructure project awarded by DEHCR to a CDBG Grantee/UGLG on or after the dates listed below must be produced in the U.S. unless a waiver or exemption applies:

<u>Category:</u>	<u>WI CDBG Grantees Subject to the BAP:</u>
Iron and steel products	Awarded on or after 1/1/2023
Construction materials specifically listed in 88 FR 17001	Awarded on or after 1/1/2024
Construction materials not specifically listed in 88 FR 17001	Awarded on or after 1/1/2025
Manufactured products	Awarded on or after 1/1/2025

An article, material, or supply is not to be classified into more than one category and must be made based on the status of the article, material, or supply upon arrival to the work site for use in an infrastructure project. Articles, materials, or supplies must meet the BAP for only the single category in which they are classified and, in some cases, may not fall under any of the categories listed above.

A contractor seeking a project-specific waiver must demonstrate the criteria for one or more of the project-specific waiver categories, as listed in the waiver request form (also in 88 FR 17001). A waiver requires approval by DEHCR, HUD, and the *Made in America Office*. [See “BABA Project-Specific Waiver Request Process” section in this document.]

#### DEFINITIONS

Key terms that have relevance to the interpretation and implementation of the BAP for CDBG are defined in the BABA statute and may be found in HUD Notice CPD-2023-12, 2 CFR 184, and OMB M-24-02 guidance.

#### BABA PROJECT-SPECIFIC WAIVER REQUEST PROCESS

Waivers are explained in HUD Notice CPD-2023-12 and OMB M-24-02 and are required by the Infrastructure, Investments and Jobs Act (IIJA) sections 70901 through 70952 for exceptions not otherwise exempt to the BAP.

A contractor seeking a project-specific waiver must demonstrate the criteria for one or more of the project-specific waiver categories are met. Contractors are to consult with and submit waiver requests to the Grantee/UGLG. The CDBG BABA Project-Specific Waiver Request Form (Attachment 3-K linked on the Wisconsin State CDBG Small Cities Program CDBG Implementation Handbook website [<https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>]) must be completed and submitted with the required supporting documentation, following the instructions on the form, for project-specific waiver consideration.

The contractor must submit the waiver request documentation to the CDBG Grantee/UGLG, and the CDBG Grantee/UGLG must verify that it is complete and submit it to DEHCR. DEHCR will review the documentation and if it is confirmed to be complete and in compliance, will submit the required waiver request information and additional documentation to the appropriate HUD representative for further review and processing. A waiver must be approved by DEHCR, HUD, and the *Made in America Office* prior to an entity proceeding with using any construction items subject to the BAP for the CDBG project that are not produced in the U.S. [Note: The waiver request review and issuance of a decision by HUD and the *Made in America Office* may require six (6) weeks or more.]

## ATTACHMENT 3-K: WISCONSIN CDBG BABA PROJECT-SPECIFIC WAIVER REQUEST

The current version of this Attachment is available on the CDBG Implementation Handbook website under the "Chapter Attachments/Fillable Forms" section at:

<https://energyandhousing.wi.gov/Pages/AgencyResources/CDBG-Implementation-Handbook.aspx>

**STATE OF WISCONSIN  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM  
BUILD AMERICA BUY AMERICA PROJECT-SPECIFIC WAIVER REQUEST**

This form is for submitting a project-specific waiver request under the provisions of the Build America, Buy America Act (BABAA) for U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funded infrastructure projects awarded through the [State of Wisconsin's CDBG Small Cities Program](#) administered through the Department of Administration – Division of Energy, Housing and Community Resources (DEHCR).

**Instructions:** Review the Build America, Buy America (BABA) (i.e., Buy America Preference (BAP)) requirements and waiver information provided in the [CDBG BABA Requirements](#) contract insertion document (also linked as Attachment 3-K on the Wisconsin [CDBG Implementation Handbook](#) website under the "Chapter Attachments/Fillable Forms" section). The entity seeking a project-specific BABA waiver must complete, sign, and submit this form and the required supporting documentation. Contractors and grant subrecipients are to email the waiver request documents to the CDBG Grantee/Unit of General Local Government (UGLG). The CDBG Grantee/UGLG is to email waiver request documents to the DEHCR Project Representative assigned to the project. Upon reviewing the waiver request documentation and verifying that it is complete and in compliance, DEHCR will submit the required information and additional documentation to the appropriate HUD representative for further review and processing by HUD and the Made In America Office.\*

*\*Note: The waiver request review and issuance of a decision by HUD and the Made In America Office may require six (6) weeks or more.*

**BABA PROJECT-SPECIFIC WAIVER REQUEST:**

1. CDBG Grantee/UGLG Name:	2. CDBG Grant Agreement #:
3. Contractor Company Name:	
4. Contractor Owner Name(s):	5. Owner Position Title(s):
6. Contractor Contact Name:	7. Contact Position Title:
8. Contact Email Address:	9. Contact Phone Number:
10. Contractor Street Address:	
11. Contractor City Address:	12. State & Zip Code:

TEMPLATE

13. Listing of Materials, Technical Specifications, and Quantity:

13.1 HUD requires the name of the iron or steel item, manufactured product, or construction material proposed to be excepted from BABA requirements, including name, cost, countries of origin (if known), and relevant Product Service Code (PSC) and North American Industry Classification System (NAICS) code.

**A separate waiver request must be submitted for each item/product for which a waiver is requested.**

Links to manuals that provide the PSC and NAICS codes are provided below:

- PSC Codes: <https://www.acquisition.gov/psc-manual>
- NAICS Codes: <https://www.census.gov/naics/>

13.1A Item/Product/Material:	13.1B Cost:	13.1C Countries of Origin: (if known)	13.1D PSC Code	13.1E NAICS Code

13.2 Technical specification description of the item to be waived, if applicable.

WI CDBG BABA Project-Specific Waiver Request
Page 1 of 4
Attach03-K v.2024-01-22

# BCD CDBG Implementation Handbook

Wisconsin CDBG Program BABA Project-Specific Waiver Request  
Page 2 of 4

13.3 Quantity required:  
---------------------------------

14. Waiver Type:  Check <u>ONE</u> option of the three waiver types listed in this section and only answer the questions applicable to the chosen waiver type.
--

<input type="checkbox"/> Nonavailability waivers: Complete section 14.1
<input type="checkbox"/> Unreasonable Cost waivers: Complete section 14.2
<input type="checkbox"/> Public Interest waivers: Complete section 14.3

14.1 Nonavailability Waiver:  Applicable responses to the following are required:
---

14.1.1 Description of the due diligence performed by the applicant, including names and contact information of the manufacturers, distributors, or suppliers contacted for quotes (minimum 3), and the responses provided. *Attach documentation for additional support if needed.*

Company Name:	Contact Date(s):	Contact Name and Title:	Company Location (City, State)	Contact Information (Info. used to make the contact):	Response Date(s):	Response:
EXAMPLE: ABC Corporation	6/1/24, 6/5/24	John Doe, Chief Sales Manager	Dayton, OH	Ph: (608) 111-2222; jdoe@abccorp.com	6/7/24	Item not available until 9/1/26
TEMPLATE						

List Each Attachment for Section 14.1.1 Included with this Waiver Request:  
--

14.1.2 In the instance that the lead time to obtain a BABA compliant item is excessive, please attach documentation which indicates: the sum of the project cost and product that was identified, the cost differential between the BABA compliant product and the Non-BABA compliant product that increases the overall project cost to be above the threshold of 25%, and any quality or quantity issues that were interfaced in the BABA compliant process. Attach documentation for additional support if needed.

List Each Attachment for Section 14.1.2 Included with this Waiver Request:  
--

## 14.2 Unreasonable Cost Waiver (BABA compliance increases total project cost by more than 25 percent)

Applicable responses to the following are required:

14.2.1 What is the additional cost of the BABA compliant item, compared to using iron and steel, manufactured products, and construction materials of non-domestic or unknown origin?

Please demonstrate how the BABA compliant item increases the total project cost by more than 25 percent.

||

Attach documentation of prices for BABA compliant and non-compliant items for the cost comparison. Attach documentation for additional support if needed.

List Each Attachment for Section 14.2.1 Included with this Waiver Request:

||

TEMPLATE

## 14.3 Public Interest Waiver

Explain how waiving the BABA requirement for this project or product serves the public interest. Attach documentation for additional support if needed.

||

List Each Attachment for Section 14.3 Included with this Waiver Request:

||

## 15. Additional Waiver Information

Provide any additional information for consideration of the requested waiver:

||

## 16. Anticipated Impacts

Identify any anticipated impacts if no waiver is issued. *Attach documentation for additional support if needed.*

||

## 17. Certification

Certification that the contractor made a good faith effort to purchase domestic products in accordance with the terms of the BABA requirements.

# BCD CDBG Implementation Handbook

Wisconsin CDBG Program BABA Project-Specific Waiver Request  
Page 4 of 4

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct. *WARNING: Anyone who knowingly submits a false claim or makes a false statement is subject to criminal and/or civil penalties, including confinement for up to 5 years, fines, and civil and administrative penalties. (18 U.S.C. §§ 287, 1001, 1010, 1012, 1014; 31 U.S.C. §3729, 3802).*"

Signature:

Printed or Typed First and Last Name:

Position Title:

TEMPLATE

## 18. Proprietary Information – Waiver of Public Disclosure

### Public Posting of Waiver Request Information

The BABAA domestic sourcing requirements waiver authority generally requires the Federal awarding agency to post this waiver information for a period of public comment and review. DEHCR and the federal awarding agency will not publicly post information considered to be personally identifiable information (PII), including signatures and specific contact information such as an email address and phone number. However, all other information contained in this form, along with any supporting documentation, may be publicly posted by the federal awarding agency so that the public has adequate information to comment on the requested waiver of the BABAA domestic sourcing requirements. If you feel that some of the information contained in this waiver request is "proprietary information" and do not want this information disclosed, please follow the instructions in "Submission of Proprietary Information", below. Please note that your designations of exempt material are not binding on the Department.

### Submission of Proprietary Information

FOIA exempts from mandatory disclosure any "trade secrets or commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. 552(b)(4) (Exemption 4). In accordance with Exemption 4, DEHCR and the federal awarding agency will maintain as confidential any documents submitted by an entity that are both customarily and actually treated as private by the entity, or closely held and not publicly disseminated. If you feel that some or all of this submission falls within the scope of Exemption 4 and is entitled to confidential treatment, you must indicate the specific information the entity considers proprietary in a cover attachment to this form. Please note that your designations of exempt material are not binding on DEHCR or HUD.

Check here if a cover attachment is being provided with this waiver request, specifying the information considered to be proprietary and exempt from public disclosure, falling under the scope of Exemption 4.

WI CDBG BABA Project-Specific Waiver Request

Attach03-K v.2024-01-22