

State of West Virginia Development Office Community Advancement and Development WVDO CDBG Implementation Procurement Policies and Procedures

Last Revised: September 2020



1. Procurement Processes

Procurements for CDBG programs are governed by those specific procurement requirements set forth under 24 CFR Part 570, 24 CFR Part 85, 2 CFR 200.317-200.326 and all applicable state laws and regulations. Aligned with the requirements of these federal regulations, when procuring property or services to be paid for in whole or in part with CDBG funds, West Virginia shall follow its own state procurement laws, regulations, policies and procedures it uses for its non-Federal funds. All of these policies and procedures are as stringent, or more so, than the federal procurement requirements. By following West Virginia's procurement laws, the state shall ensure that each procurement stemming from the CDBG programs occurs with full and open competition. Should the State's CDBG Program involve other non-Federal entities at any time, including subrecipients of West Virginia, these non-Federal entities will be required to follow 2 CFR 200 guidance.

Generally, the governing procurement statutes and regulations can be found at West Virginia Code Section 5A-3-1 et seq., and the West Virginia Code of State Rules Section 148-1-1 et seq. The State's purchasing Statutes may be viewed at <http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=05a&art=3> and its purchasing regulations may be viewed at <http://www.state.wv.us/admin/purchase/rules.html>.

All state agencies, state procurement officers and their staff are required to comply with the requirements set forth therein to perform procurement and other related activities. Thus, WVDOC, WVDO are required to follow these same requirements. The West Virginia Department of Administration - Purchasing Division (WVDOP) is responsible for the timely, responsive and efficient procurement of goods and services for state government and all procurements are ultimately approved by WVPOD.

In accordance with West Virginia's law and other regulatory requirements, specific procedures have been established to ensure compliance and to provide a fair, equitable process to procure commodities and services. These specific procedures implemented by WVPOD can be viewed at <http://www.state.wv.us/admin/purchase/handbook/>.

As outlined in those purchasing procedures, the state uses a variety of source selection processes, including emergency purchases, simplified "small" or "micro" purchase procedures, specific procedures for purchases between \$2,500.01 and \$25,000 and standard competitive procedures such as competitive sealed bidding and competitive sealed proposals, qualification based selection procedures for the acquisition of construction related professional design services; and, indefinite delivery contracts for construction and related design services.

A focus of West Virginia's is that opportunities be made available for small and minority businesses. Accordingly, the state maintains a robust Small & Minority Business Contracting and Certification Program. The preference for such qualified entities is fully detailed both within the state's procurement laws and the WVPOD Handbook at Sections 4.3 and 3.10.1.3.

Further safeguarding compliance with federal requirements, West Virginia shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, executive orders and implementing regulations such as those listed at 2 CFR 200.326.

The state's current procurement laws, regulations, policies and procedures also include ethical standards of conduct governing employees engaged in the award or administration of contracts. West Virginia maintains a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. In fact, the State requires all evaluators and advisor(s) of solicitations, despite the type of transaction, and the agency procurement officer, to sign a **Certification of Non-Conflict of Interest**, in accordance with the **West Virginia Code** §5A-3-31. By signing this certification, the evaluator(s), advisor(s) and agency procurement officer attest that: (1) his or her service on the evaluation committee is not in violation of West Virginia Code § 5A-3-31, § 6B-2-5, or any other relevant code section; (2) his or her service on the evaluation committee does not create a conflict of interest with any of the participating vendors; and (3) he or she has not had or will not have contact relating to the solicitation identified herein with any participating vendors between the time of the bid opening and the award recommendation without prior approval of the Purchasing Division. Agency procurement officers discuss the non-conflict of interest issue with potential committee members to ensure that individuals who may have a conflict are not chosen to participate as evaluation committee members. Furthermore, under the State's purchasing rules, a contract will be cancelled should it be determined that said contract was received in conflict with any federal law or regulation or if the existence of an organizational conflict of interest is determined. The state's current procurement laws, regulations, policies and procedures assure compliance with federal requirements, including those outlined at 2 CFR 200.318(C)(1), 2 CFR 200.318(K), 2 CFR 200.322, and 2 CFR 200.324

West Virginia's procurement policies of the state do align with the requirements set forth under 2 CFR 200.318-200.326 ensuring fair and open competition. The following table provides a cross reference between the federal regulatory requirement and its counterpart under West Virginia's procurement law – both under the State's procurement statutes and purchasing regulations.

Federal Citation	Short Title	West Virginia Code and West Virginia Code of State Rules	West Virginia Purchasing Division Procedures Handbook (rev. July 1, 2020)
2 CFR 200.318	General Procurement Standards	West Virginia Code § 5A-3-1, et seq. West Virginia Code of State Rules 148 CSR 1	Surplus Property Management 3.6.1.1 Surplus Property See also Surplus Property Operations Manual http://www.state.wv.us/admin/purchase/surplus/surplus_operations_manual.pdf
2 CFR 200.319	Competition	West Virginia Code §5A-3-31 West Virginia Code §148-1-6.5a West Virginia Code § 55-22-1(f)	Section 6 – Formal Acquisition Procedures 3.4 Specifications
2 CFR 200.320	Methods of Procurement to be Followed	West Virginia Code §5A-3-10(a)-(e) West Virginia Code §5A-3-11(a)-(c)	Section 5 – Agency Delegated Acquisition Procedures Section 6 – Formal Acquisition Procedures Section 7 – Special Acquisitions
2 CFR 200.321	Contracting with Small, Minority, Women Owned Businesses	West Virginia Code §5A-3-37(a)(7) West Virginia Code §5A-3-59 West Virginia Code of State Rules §148-22-1 et seq. West Virginia Code of State Rules §148-22-9	4.3 Small, Women-, and Minority-owned Business Certification (SWAM) 3.10.1.3 SWAM Preference
2 CFR 200.322	Procurement of Recovered Material	WVDO CDBG Implementation Procurement Policies and Procedures	
2 CFR 200.323	Contract Cost and Price	West Virginia Code of State Rules §148-1-6.8 West Virginia Code of State Rules §148-1-6.8.f	5.8 Changes 6.4 Contract Commencement 6.5 Contract Management 6.7 Changes and Cancellations
2 CFR 200.324	Federal Awarding Agency or Pass-Through Entity Review	<i>(Compliance shall be achieved through execution, implementation of grant agreement with HUD and subrecipient agreements)</i>	
2 CFR 200.325	Bonding Requirements	West Virginia Code §17-4-20	6.2.4 Securities/Bonds and 6.2.5 Bonds
2 CFR 200.326	Contract Provisions	<i>(Compliance shall be achieved through execution and implementation of grant agreement with HUD)</i>	<i>(Compliance shall be achieved through execution, implementation of grant agreement with HUD and subrecipient agreements)</i>

Effective July 9, 2018

The West Virginia Development Office requesting goods or services with a total cost of \$25,000 or greater shall complete the purchase authorization, approval form and obtain the signature of the WVCAD Director and agency's Procurement Officer. Approval must be obtained by the Cabinet Secretary or his/her Deputy or other assigned designee. The agency's Procurement Officer will submit required documents to the WV Purchasing Division within the Department of Administration, unless a specific exemption has been granted by the Purchasing Division.

All agency staff procuring goods or services of any cost must communicate in writing with their designated agency's Procurement Officer in the process. The WVDO specifically has dedicated 1.5 full-time employees to CDBG grant awards to assist in compliance with procuring all goods and services.

2. CDBG Responsible Staff

Team/Unit	Role	Contact Information
Program Manager	CDBG-DR	Email: Michelle.D.Tharp@wv.gov Phone: 304-558-2234
	CDBG-MIT	Email: Sherry.L.Risk@wv.gov Phone: 304-957-2068
Technical Services	<u>Vendor Registration</u> Vendors must register with the state in order to do business with agencies.	Email: Purchasing.VendorRegistration@wv.gov Phone: 304-558-2311
Procurement Officer	<u>Acquisition Planning</u> Planning that determines the commodity or service needed, quantity, quality level, delivery location, and time frame.	Email: Kelli.D.Compton@wv.gov Phone: 304-957-2076
	<u>Agency Delegated Acquisition</u> Purchases less than \$25,000 and are conducted within the agency.	
	<u>Formal Acquisition Procedures</u> Purchases over \$25,000 and are conducted through the Purchasing Division.	

Team/Unit	Role	Contact Information
Procurement Officer	<u>Special Acquisitions</u> Procurement of certain commodities and services has limitations or require special procedures.	Email: Kelli.D.Compton@wv.gov Phone: 304-957-2076
	<u>Quality Assurance</u> Partnership involving the state agency, the vendor and the Purchasing Division.	
	<u>Exempt Purchases</u> Commodities and services that are impossible to bid.	