

Updated 9.29.16

2 CFR 200 Frequently Asked Questions

2 CFR 200 replaced 8 previous Federal Circulars and consolidated guidance on federal requirements that apply to recipients of federal funds. This language replaces HUD's 24 CFR Parts 85: Federal procurement standards for States and Local Governments.

1. How does 2 CFR 200 language impact 2016 CDBG awards?

A: After review of federal regulation and guidance, IEDA staff has determined that communities awarded 2016 CDBG funds would not be required to follow 2 CFR 200 requirements, if procurement has already been completed. If a 2016 recipient completed procurement for services by the time of award that met 24 CFR Part 85 requirements, the recipient would not need to go through procurement again to meet the new requirements.

HUD CPD Notice #CPD-16-04 provides guidance on the implementation of new procurement standards. This guidance provides states with a timeframe in which to comply with the new requirements, and after review, IEDA has determined that the 2016 award recipients would fall within the allowed timeframe (2 years from the initial adoption in 2014).

2. Can consultants/agencies assist communities with the procurement process?

A: If the consultant/agency plans to respond to the RFP/ RFQ for services they may NOT assist or be involved in any part of the procurement process. This includes developing procurement documents, developing scoring sheets, providing examples or templates for communities, assisting with advertising the RFP/RFQ.

If a community would like assistance or has questions regarding the RFP/ RFQ process, the consultant/ agency should refer the community to IEDA.

3. Can a Council of Governments (COG) assist a community with procurement of an engineer or architect?

A: Yes. If the consultant/ agency does not plan to respond to the RFP/RFQ, then they may provide assistance.

Because a COG would not respond to an RFP/ RFQ for engineering or architectural services, they may assist a community with procurement of an engineer or architect.

4. If a community plans to seek CDBG funding, when should they complete procurement?

A: Based on changes made in 2 CFR 200, communities should procure for ALL services at the time prior to applying for CDBG funds. This includes all engineering & architectural services, grant administration services, and technical services (if applying for CDBG housing funds):

- Communities should procure for preliminary design, final design, and construction management services at the same time, through one procurement process.
- Communities should procure for grant administration prior to applying for CDBG funds.
- Communities should procure for technical services (for housing projects) prior to applying for CDBG funds.

Note: A community may contract separately for services if those services are procured concurrently. For example, if a community procures for all engineering services for a project, the community may enter into separate contracts for preliminary design and final design. Procuring for all services at the same time would not require a city to enter into one contract for all services.

5. When is an engineer/ architect prohibited from bidding on an RFQ/RFP?

A: 2 CFR 200.319 addresses this issue:

§ 200.319 Competition.

- (a) *All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.*

If an engineer/ architect assisted with any part of the RFP/ RFQ process, they cannot respond to that RFP/RFQ.

Note: IEDA must interpret this new 2 CFR language with respect to its formal effective date (7/1/2016) as well as with regard to any existing procurement completed in good faith under 24 CFR.

6. How does 2 CFR 200 language impact 2017 and future applications that my agency is already working on?

A: Please see the guidance below, originally emailed on 6/30/16, regarding 2017 CDBG & future applications:

For 2017 and 2018 CDBG Application deadlines:

- Guidance for Administration and Technical Services Procurement:
 - **For projects that plan to apply in 2017:** Re-procure for ALL services following 2CFR 200 requirements.
 - Guidance for Engineering and Architectural Procurement:
 - **For projects that have procured only preliminary designs and plan to apply in first or second quarter 2017:** Executed preliminary design contracts will remain effective. Procure for final and construction services following 2CFR 200 requirements prior to submitting an application.
 - **For projects that have only procured preliminary designs and plan to apply in third or fourth quarter 2017 and all of 2018:** Re-procure for ALL services, at the same time, following 2CFR 200 requirements.
 - **For projects that have not procured any services and plan to apply in 2017 or 2018:** Procure for ALL services, at the same time, following 2CFR 200 requirements prior to application: preliminary, final, construction services. This is the required method of procurement for future RFQs for CDBG projects.

7. An engineer has previously prepared a study (PER or facility plan) for a community. The study discusses the proposed CDBG project, along with several other potential projects. The city is now procuring for engineering services for the CDBG project. Is the engineer that prepared the plan prohibited from responding to the RFP/ RFQ?

A: If the engineer has only developed a study and has not completed project specific work, then the engineer may respond to the RFP/ RFQ.

8. Where can communities find guidance on procurement for CDBG process?

A: IEDA has developed instructions for communities to use when completing procurement for a CDBG application/ project. We have also developed templates or sample RFP/ RFQ documents that communities can use. These documents are available at <http://www.iowaeconomicdevelopment.com/Community/CDBG>.

9. Can a consultant/agency refer a community to another consultant/agency for assistance with development of RFP/ RFQ materials?

A: Yes. Consultants/agencies may refer a community to another consultant/agency for assistance with the RFP process. This would allow the referring agency to bid on the proposed work, as they would not have been involved with or provided assistance to the community.

However, to avoid conflicts of interest, the consultants/agencies must be separate entities/ organizations and may not share leadership or management roles (i.e. member of one entity serves on a board of another). Please check with IEDA on any questions you may have on this issue as it relates to potential conflicts.