



Community Services Division
Office of Community Development
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SUBJECT: Agreements for Grant Administration of Office of Community Development Programs

ISSUED: July 1, 2013

DISTRIBUTED TO: Office of Community Development Award Recipients and their Affiliates

PROGRAM POLICY

This policy clarifies the Ohio Development Services Agency Office of Community Development's guidance on various relationships available to grant recipients for administration of grants and rescinds and replaces the previous guidance on hiring nonprofit organizations as administrative consultants issued in Program Policy Notice OCD 01-01, previously known as OHCP 01-01.

The Ohio Development Services Agency Office of Community Development per grant agreement with Grant Recipients does not permit subgranting of funds or subrecipient agreements with other local governments or agencies. This is stated in the **Assignment** heading of the grant agreement:

“Neither Agreement nor any rights, duties, or obligations described herein shall be assigned, subcontracted or subgranted by Grantee without the prior express written consent of Grantor.”

The Grant Recipient is responsible for the proper administration of all grant funds it receives and compliance with all of the terms and conditions of the grant agreement. The Grant Recipient is ultimately responsible for full grant accountability. The Office of Community Development does permit the Grant Recipient to enter into administrative agreements with private consultants, nonprofit organizations, regional planning commissions, municipalities, housing authorities, Community Improvement Corporations, etc. The Grant Recipient may also enter into tri-party agreements to carry out grant administration. Competitive Residential Public Infrastructure Grant recipients and Supportive Housing grant recipients may enter into memorandums of understanding. The total dollar amount of the administrative agreement may not exceed the amount of administration dollars allocated in the associated the Office of Community Development grant agreement(s) unless the Grant Recipient also allocates other grant funds to grant administration.

Administrative duties related to the oversight of the grant which **cannot** be contracted include:

- Awarding/notice/ownership of contract awards
- Drawdown of funds requests/reports and payment of expenses
- Environmental Review certification and compliance
- Determination of allowable costs and maintenance of source documentation
- Determination of conflict of interest
- Approval of bid documents and labor standards compliance and reporting
- Real and personal property management and disposition
- Certification of Status and Final Performance Reports

Implementation duties that can be contracted include, but are not limited to:

- Assistance with Citizen Participation Requirement
- Constructing environmental review record on behalf of the Grant Recipient
- Project implementation
- Work write-ups
- Preparing contract document for the Grant Recipient's execution
- Conducting construction field inspection, visits, preparing reports for the Grant Recipient review
- Conducting labor standards employee interview
- Recommending payment of invoices for contract work
- Preparation of real property acquisition documents
- Preparation of relocation documents
- Preparation of budget and scope changes for the Grant Recipient's executed grant agreement with the Office of Community Development
- Conducting income surveys
- Assistance with implementing fair housing program
- Assistance with soliciting minority, women-based business, and Section 3 contractors
- Documentation of listing of debarred contractors
- Assistance with ADA and Section 504 compliance
- Distribution of lead-based paint brochures
- Preparation of draw requests
- Preparation of reporting documents

Procurement and Contract Administration

Title 24 CFR 85.36 is the authority for local governments to use when procuring consulting services. Title 24 CFR Part 84 is the authority for non-governmental entities, i.e., nonprofit organizations.

The procurement of contract services must provide for an overall system of contract administration to ensure proper post-award administration of each procurement action.

Title 24 CFR 85.36(b)(2) states that grantees "will maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders."

Similarly, for nonprofit organizations, 24 CFR 84.47 requires that "a system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. Recipients shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract."

Methods of Procurement

The Grant Recipient may use different methods of procurement to obtain administrative services. The Grant Recipient may enter into agreements with multiple entities.

Local Government Recipients

- A. Requests for qualifications and proposals 24 CFR 85.36(d)(3)
- B. Hiring Nonprofit Organizations or Municipalities as Administrative Consultants (HUD General Notice March 27, 1987):
 - 1. The Grant Recipient shall submit to the prospective administering organizations that they are considering a Request for Application. This Request for Application shall, at a minimum, provide a clear explanation of the program to be administered, identify the scope of services to be rendered, provide a listing of the information sought from the prospective administering organization, provide an overview of the regulatory issues that they must address, and identify all evaluation factors to be used in evaluating the prospective administering organization's application.
 - 2. The prospective administering organization shall provide a response to the Request for Application that, at a minimum, includes the related past experience, qualifications and capacity of the nonprofit agency to do the proposed work; the proposed plan of the organization to undertake the scope of services including its implementation schedule, budget (direct and indirect costs only), and staffing structure; and how the organization intends to assure compliance with the program regulations. (When reviewing applications from previously funded prospective administering organizations, allowances may be made for information already obtained from the prospective administering organization in order to make the application process less burdensome).
 - 3. The Grant Recipient shall evaluate the application from the prospective administering organization. The evaluation criteria may include a number of factors, but shall at a minimum include financial capacity and stability, experience and expertise and demonstrated capacity including adequate staffing and organizational strength.
- C. Small purchases 24 CFR 85.36(d)(1) [small purchases are purchases of less than \$50,000 per Ohio Revised Code].
- D. Grant Recipients awarding tri-party contracts should seek advice of local law director.

- E. Memorandum of Understanding [use only available to competitive Residential Public Infrastructure Program grant recipients].

Nonprofit Recipients

- A. Requests for qualifications and proposals (RFQ/P) 24 CFR 84.44
- B. Small purchases 24 CFR 84.44(e)(2) [when the procurement is expected not to exceed the lesser of the agencies procurement threshold for small purchases].
- C. Memorandum of Understanding [use only available to Supportive Housing Program grant recipients]

Administrator Subcontracting

If the contracted administrator needs to subcontract, the administrator must comply with its local policies, Ohio Revised Code, or local Charter.

Minimum Content of Administrative Agreements

The administration agreement between the Grant Recipient and administering organization must contain, at a minimum, all federal uniform administrative requirements, a description of the work to be performed, a schedule for completion of the work, a budget, procedures for disbursement of funds, requirements for records and reports that must be submitted, dispute resolution procedures, suspension and termination clauses, access to records, a non-discrimination clause, a conflict of interest clause, subcontracting provisions and whatever other provisions are deemed necessary after consultation with the community's legal representation and a review of federal, state and local regulations.

Adoption by Resolution

The agreement between the Grant Recipient and the administering organization should be formalized with a resolution passed by the Grant Recipient's governing body.

Maintenance of Records

The Grant Recipient is responsible for maintaining all of the appropriate records associated with the procurement of the administering organization including a copy of the Request for Application/Request for Qualifications/Request for Proposals when applicable; the application submitted by the administering organization; the evaluation rating tool complete with the administering organization's performance; the written agreement between the grantee and the administering organization; the resolution; records on monitoring visits and oversight activities undertaken by the grantee; and a record of the disbursement of funds.