



Disaster Recovery Pre-Qualified Contractor Pool/List Guidance

How to Utilize the Available Contractor Pool/List and Ensure Compliance with Federal Requirements

All Hazards Preparedness, Planning, Consulting and Recovery Services

About the Cooperative

The Houston-Galveston Area Council (H-GAC) is the largest of 24 Councils of Government (COG) in Texas and is a political subdivision of the State of Texas. It has been serving local governments for more than 40 years.

H-GAC's Cooperative Purchasing Program, known as HGACBuy, was established pursuant to Texas Interlocal Cooperation Act [Texas Local Government Code, Title 7, Chapter 791]. The Act allows local governments and certain non-profits to contract or agree under the terms of the Act to make purchases or provide purchasing services and other administrative functions appropriately established by another government entity. The Interlocal Contract (ILC) is the required legal document that establishes a link between the End User (local governments and certain non-profits) and HGACBuy and gives the End User access to HGACBuy contracts.

H-GAC has established Interlocal Contracts with thousands of End Users throughout Texas and across the United States.

HGACBuy contracts are established based on the requirements of [Texas Local Government Code, Chapter 252]. Products and services are contracted after having been subjected to either a competitive bid (IFB) or competitive proposal (RFP) process. Contracts are blanket type, usually for a term of two or three years. Use of HGACBuy for purchases by any End Users is strictly at the discretion of that entity. End Users issue their purchase orders to and pay directly the HGACBuy Contractor.

For information on How to Become a Member or to see available contracts, please visit www.hgacbuy.org

Disaster Recovery Pre-qualified Contractor Pool/List Guidance

HGACBuy offers to its members pre-qualified contractor pool/lists to assist with Disaster Planning and Recovery:

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These pre-qualified contractor pool/lists were established through a formal sealed competitive proposal process to establish pre-qualified contractor(s) with ceiling rates for their services. The solicitations placed emphasis on the Federal Procurement Standards of “Super Circular 2 C.F.R. 200” and the required affirmative steps for contracting with small and minority businesses, women business enterprises and labor surplus area firms.

When engaging these pre-qualified contractor pool/lists, please note that an additional competitive step is required among the pool of qualified HGACBuy Contractors.

Members must conduct their own solicitation to finalize the procurement process by obtaining price quotes from at least three (3) contractors from the available pre-qualified list, and when utilizing FEMA or other Federal funding, if not in a public emergency or exigency situation, members must also allow other interested contractors not on the pre-qualified list to submit a bid prior to entering into a contract/service agreement with a selected contractor.

When purchases are anticipated to be funded with Federal grant dollars, such as FEMA or HUD assistance, additional requirements apply. Those requirements are emphasized throughout this guidance.

As a general rule, where a direct conflict exists between a Federal procurement standard and a local, state, and/or tribal procurement standard or regulation, the Federal agency expects the more restrictive procurement standard to be used.

Additionally, all members utilizing the HGACBuy services should consult with their state, local, and/or procurement office or legal counsel to ensure compliance.

***Disclosure:** Where a member uses the HGACBuy program, the responsibility to ensure compliance with 2 C.F.R. 200 and individual state procurement laws and regulations rests on the member as end user.*

OMB Uniform Guidance - Section 2 CFR 200

OMB Uniform Guidance Section 2 C.F.R. §200.318(e) encourages non-federal entities to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services in order to foster greater economy and efficiency.

Further, 2 C.F.R. 200 requires that a grantee or sub-grantee follow the most restrictive rule applicable to it, whether it be its own state procurement laws, or the procurement requirements set out in the federal rules.

HGACBuy uses a public competitive bid/proposal process which complies with the State of Texas procurement laws and federal rules for all threshold levels.

For purchases below the micro-purchase level, the federal rules do not require the solicitation of competitive quotations, but the Member must determine the price to be reasonable. HGACBuy's public competitive bid/proposal process is a good indication that a price is reasonable.

The federal rules state that purchases between the micro-purchase level and the simplified acquisition threshold require "price or rate quotations to be obtained from an adequate number of qualified sources." HGACBuy provides multiple contract awards through its bid/proposal process. When using HGACBuy, purchasers should obtain price or rate quotations from an adequate number of qualified sources.

Purchases above the simplified acquisition threshold can use either sealed bids, competitive proposals, or non-competitive proposals depending on the circumstances. HGACBuy uses sealed bids and competitive proposals as required by the federal rules.

Additional Requirements for Members

While HGACBuy complies with all the rules listed above, there are additional requirements that the individual Member must comply with to ensure a fully competitive process has been completed to ensure compliance with state and Federal procurement rules. HGACBuy recommends that the individual Member:

- Perform a cost or price analysis for all purchases above the simplified acquisition threshold. At a minimum, the member should make independent estimates before receiving bids or proposals.
- To the extent possible, distribute micro-purchases equitably among suppliers.
- Review the entirety of 2 CFR §200.317-327 or as referenced under any most recent version of the Procurement Standards to determine other requirements that may apply to the Member directly.
- Review its individual state procurement laws and regulations to determine if they are more restrictive than the federal regulations.
- Consider the procurement requirements of the funding source to ensure all rules are fulfilled, (those listed here, as well as others).
- Recognize that pricing offered on HGACBuy can be used to negotiate with established contractors to attain best value.
- Members using the HGACBuy program must also endeavor to take the steps listed 2 C.F.R. §200.321, particularly the requirements that cannot be met until vendors are solicited for specific scopes of services and contracts are actually awarded, such as setting delivery schedules and dividing requirements to permit maximum participation by disadvantaged firms.

Disaster Recovery Contracts - Required Provisions

All members and contractors using the debris removal services proposals at issue must incorporate by Addendum to their contracts the required provisions of 2 C.F.R. §200.327 and 2 C.F.R. 200, Appendix II, Required Contract Clauses, where the contract will be funded in whole or in part by federal dollars.

Links and Resources

Current version of 2 C.F.R. 200:

https://www.ecfr.gov/cgi-bin/text-idx?SID=27ced380f443d64f459699d8d1b9e188&mc=true&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

For information, resources, and additional guidance regarding FEMA compliance, please visit the FEMA Public Disaster Assistance Team website:

<https://www.fema.gov/procurement-disaster-assistance-team>

Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards:

https://www.ecfr.gov/cgi-bin/text-idx?node=ap2.1.200_1521.ii&rgn=div9

Procurements Under Grants Compliance Checklist (FEMA):

[https://www.fema.gov/media-library-data/1479225376216-2bdb7d3ba1a512495c38535f12bad2c5/ChecklistforProcurementsAssociatedwithDisastersAFTERDec262014-NewUniformRules\(11-14-16\).pdf](https://www.fema.gov/media-library-data/1479225376216-2bdb7d3ba1a512495c38535f12bad2c5/ChecklistforProcurementsAssociatedwithDisastersAFTERDec262014-NewUniformRules(11-14-16).pdf)

FEMA Procurement Disaster Assistance Team’s Contract Provisions Template:

<https://www.fema.gov/media-library-data/1557346958767-7fe2feb2ef09f7c3d0d2411a9a718f7/PDATContractProvisionsTemplate.pdf>