

Capital Development—NOTICE OF GRANT AWARD

Frequently Asked Questions

The following questions and answers are organized by the following headings/topics for the awards made under the Capital Development (CD) grant program. Information related to the CD funding opportunity is available at <http://bphc.hrsa.gov/capital>.

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GENERAL

1. Who do I contact to submit information and release conditions on this CD grant?

The grant number for this program will begin with “C8A.” Deliverables can be submitted directly to HRSA’s Electronic HandBook (EHB). Please ensure to upload the appropriate deliverable in response to a specific condition or reporting requirement as identified on the Notice of Grant Award (NGA); this will ensure timely review and processing of all deliverables. For more information about registering in the EHBs and accessing post-award submissions, please visit <https://grants.hrsa.gov/webExternal/help/hlpTOC.asp>.

For assistance using the EHBs or completing these submissions, please contact the HRSA Call Center at 877-Go4-HRSA/877-464-4772, 301-998-7373, or CallCenter@HRSA.gov.

For programmatic questions, please contact the assigned C8A Project Officer.

2. Who is my Grants Management Specialist (GMS)? When should they be contacted?

The contact in the Division of Grants Management Operations (DGMO) assigned to this award is listed on the final page of the NGA. Contact the C8A GMS in order to resolve budget questions and if you have budget-related questions.

TERMS AND CONDITIONS

3. If requested documentation was already submitted prior to my award, why is the condition on my NGA? Do I need to re-submit all that information again?

It is possible that documentation submitted did not meet all of the requirements of this funding opportunity. Please contact the assigned C8A Project Officer to determine what specific information and/or revisions need to be included for the requested documentation. Once review of the submitted documentation has been completed, the condition(s) will be lifted from the NGA.

4. How will pre-award costs be approved?

For approval of pre-award costs, recipients must submit a description of the costs and invoices to the Grants Management Specialist by sending an email to the GMS listed on the NGA. Costs incurred prior to March 23, 2010 cannot and will not be approved.

5. Why does HRSA have to perform an environmental review of my project?

The National Environmental Policy Act (NEPA) establishes national environmental policy and goals for the protection, maintenance, and enhancement of the environment and it provides a process for implementing these goals within the federal agencies. Federal-wide regulations for the National Environmental Policy Act, are found at 40 CFR Part 1500. HRSA's procedures (approved by the White House Council on Environmental Quality) can be found at HHS Grants Administration Manual (GAM) Part 30 (<http://www.hhs.gov/hhsmanuals/read/gam/part30/>).

6. What if we have already begun construction for one (or more) of our projects?

Pre-awards costs after March 23, 2010 may be approved pending environmental, historic preservation and architectural/engineering reviews and depending on compliance with other Federal requirements, including procurement regulations. If the construction or renovation work itself has begun prior to final approval from HRSA, CD funds may be at risk if HRSA is unable to complete its environmental, historic preservation, and other reviews.

7. Can we start our CD project(s) immediately?

CD applications have already undergone significant reviews—including an independent objective review and technical reviews for environmental impact, historic/cultural preservation, architectural and engineering reasonableness, and service area overlap. Notices of Grant Award (NGAs) will identify outstanding conditions that remain. Recipients should **NOT** start CD projects until **ALL** applicable conditions have been satisfactorily met. Costs that may be incurred prior to the meeting of all conditions include those for limited activities related to meeting one of these conditions, such as expenses for completing architectural and engineering plans, meeting licensing and permitting requirements, historic preservation consultation with SHPO/THPO, and preparing the Environmental Assessment.

8. What if we need to change the Project Director on the CD grant?

To request a change of Project Director, grantees may send a message to the GMS identified on the NGA.

BUDGET ISSUES

9. Why do I have disallowed/unallowable costs listed in my NGA? Why is my original grant request reduced?

If HRSA's review of an application identified unallowable costs that cannot be supported with CD grant funds, a term was included in the Grant Specific Terms section of the NGA that details the unallowable cost(s). If the application included sufficient non-federal resources to cover these costs, then the unallowable costs are listed but the grant award as originally requested remains the same. If the application did not include sufficient non-federal resources to cover these costs, then the grant award was reduced accordingly to ensure CD funds do not support unallowable costs.

Failure to comply with the term (i.e., CD funds are used to pay for unallowable costs) may result in the disallowance of grant funds and/or drawdown restriction being placed on Payment Management System accounts.

10. Would a revised NGA be issued for minor re-budgeting of costs or costs re-budgeted across line item categories?

Any major change to a budget (greater than 25% or \$250,000 of the total budget, whichever is greater) requires approval and may result in a revised NGA being issued. The only instance that a revised budget

would be requested for re-budgeting funds less than 25% or \$250,000 of the total budget is if funds are being moved to a category that did not have any funding prior to the revised budget.

11. Is it possible to reallocate equipment by swapping/trading one piece of equipment we planned in our CD application to purchase another?

As long as the equipment does not significantly impact the outcome of the originally proposed project, grantees may reallocate funds within the Equipment line on the project budget (Line 10 on the SF-424C) to support other types of equipment. Any minor changes to the originally proposed project should be documented as part of the grantee's quarterly reporting. As long as the costs do not exceed 25% or \$250,000, grantees will not need prior approval.

Grantees will need to remember that equipment purchased with CD funds must be maintained, tracked, and disposed of in accordance with 45 CFR Parts 74.34 and 92.32. Grantees should maintain documentation of all changes to the original equipment list, as a final and correct equipment list will need to be provided to HRSA upon completion of the project.

12. Can we add a new project and move money to it with approval from our Grants Management Specialist?

No. An additional project from what was approved and noted in the CD NGA **cannot** be proposed.

13. Can we propose a new site for our CD project?

Generally, no. If extenuating circumstances prevent a site from being available for the proposed project, please contact the assigned C&A Project Officer to discuss.

14. If a revised budget is needed, does it have to account for costs incurred during the next 24 months?

The budget should account for how CD funds will be utilized for the 2-year project/budget period of the award. Any pre-award costs will need to be approved and sent separately to the appropriate GMS. CD funds must be fully obligated within the 2-year project/budget period.

15. Can we re-budget our contingencies or miscellaneous costs in another category to get our budgets approved since they were flagged as being excessive or exceeding the percentage limit outlined in the guidance?

Grantees with questionable costs in their applications received a condition on their NGA requiring the submission of a new budget and budget justification. Any revised budget or relevant material will have to be reviewed by DGMO for approval. Further justification of a budget for contingencies or excessive miscellaneous costs may be needed in order for DGMO to approve costs and deem them allowable for a given project.

DRAWDOWN OF FUNDS

16. How soon can we draw down our funds?

Grantees may draw down funds for preparation costs (e.g., environmental assessment, architectural/engineering permitting, and SHPO/THPO consult) and may NOT draw down funds to pay for other costs until **ALL** conditions on the NGA have been satisfied. Grantees should exercise caution before committing to a construction start date prior to completion of HRSA's review and approval to lift conditions.

17. UPDATED Will we be able to go to our H80 accounts in PMS to drawdown CD funds?

No. The CD is a SEPARATE grant from the H80 program. Grantees **may NOT** comingle funds from the Capital Improvement Program, Increased Demand for Services, the Health Center Cluster, and the Health Center Program grant.

Payment Management System (PMS) sub-accounts have been established for CD recipients to drawdown funds (the CD grant number begins with C8A). Be advised this sub-account is different from the H80 account. Please contact the assigned PMS representative for help setting up this account. **The CD recipient does not need to create a separate bank account for the C8A funding.** Please be aware of any restrictions on the NGA that prohibits the drawdown of funds before responding to a condition of award.

FEDERAL INTEREST

18. Is a Notice of Federal Interest (NFI) required for my Capital Development project?

Yes. NFI filings are required for:

- **ALL** construction projects.
- **Each** alteration/renovation project having a total (Federal and non-Federal) allowable project cost of more than \$500,000, **excluding moveable equipment costs.**

19. Does Federal Interest exist if I don't file a NFI?

Grantees that are not required to file a NFI must be aware that the Federal Interest still exists irrespective of the filing of the NFI. For alteration/renovation projects less than \$500,000, the grantee shall maintain adequate documentation regarding protection of all Federal Interest. This will include communications with a lessor related to protecting such interest during the lease period, in accordance with the standard award terms and conditions. Such documentation should be available for subsequent review.

20. If there is already a NFI on the same piece of property that the construction will be placed upon, is the owner required to file another?

If there is an existing HRSA NFI on the same piece of property, the NFI must be amended with the additional information related to the funding opportunity (grant number, purpose, etc.). This revised copy must be recorded with the appropriate jurisdictional records. A **notarized and recorded** copy of the revised NFI must be provided to the Grants Management Specialist via EHB. Recipients must also remember that NFIs must be filed prior to starting the construction or alteration/renovation project.

21. Where do I file and record my NFI at the local level?

The NFI must be filed against the property deed. Property deeds are usually located at the County Courthouse, County Clerks, Register of Deeds, or other equivalent recordation offices. Some counties and offices may not be familiar with the NFI process, so grantees may need to explain that a NFI is essentially a Federal lien. Because the process and locations to file property related records varies greatly between jurisdictions, HRSA is unable to provide detailed information as to how the process works within each locality.

The NFI needs be notarized AND recorded in lands records office or Municipal records office BEFORE a copy is sent to HRSA. A copy of a filed NFI is needed in order to lift the condition from NGAs. Please see the sample Notice of Federal Interest available online at <http://bphc.hrsa.gov/capital>.

22. Will HRSA take a subordinate position to existing mortgage holders and lenders on potential debt financing for CD projects?

HRSA's NFI is subordinate to all pre-existing mortgages or obligations recorded against the property. Also, the NFI is also subordinate to any pre-existing loans and obligations identified by the grantee in the grant application as sources of financing for the project. Future modifications to existing mortgages and new mortgages will require HRSA review and prior approval.

23. The grant award requires that the facility owner file a NFI against a facility deed. What if the owner wants to secure additional mortgages, lease the facility to an entity that does not provide healthcare, or sell the facility?

A NFI is essentially a lien that protects HRSA's financial and public interests in the real property being used to deliver health care services. After a NFI is filed against the property, activities such as new

mortgages, selling the facility, or leasing the facility to an entity that does not provide healthcare, requires prior approval from the HRSA. The NFI will not affect existing mortgages or modifications being made to the facility.

Prior approval must come in the form of a written request from the grantee to HRSA, either by letter or by email, with the following information:

1. What is the action that the owner wants to undertake (new loan, refinancing, expansion, sale, etc.)?
2. What is the grantee or owner requesting from HRSA (permission to secure a new loan, transfer to another site, etc.)?
3. If applicable, details of the project financing (the combination of loans and internal funding), or proposed sale (whether there is an identified buyer, the proposed sale price).
4. Copy(s) of all HRSA NFIs, associated Notice(s) of Grant Award, and/or funding information associated with the NFI. A copy of the deed, with a legal description of the property, to which the Federal Interest is attached.
5. Appraised value of the property at the time of project completion.
6. Terms of the proposed loan, i.e., interest rate, period of loan, amortization schedule.
7. Last three years of audited Financial Statements.

Reviewing Federal Interest requests takes time and HRSA requests patience and cooperation in the process. Providing detailed requests and supporting documentation up front will aid in expediting reviews.

24. Will the value of the Federal Interest change over time, especially as the useful life of the renovation/alteration expires?

Each alteration/renovation project having a total (Federal and non-Federal) allowable project costs of more than \$500,000, excluding moveable equipment costs, is required to file a NFI.

HRSA acknowledges that the market value of HRSA-supported renovations/alterations will change over time. HRSA will work with grantees to recognize the changing market value of improvements and other activities made by the grantee or property owner of the facility.

ENVIRONMENTAL AND HISTORIC PRESERVATION REQUIREMENTS

25. What is the National Environmental Policy Act?

The National Environmental Policy Act (NEPA) requires every Federal agency to follow a specific planning process to ensure that agency decision-makers and applicants have considered and the general public is fully informed about, with the opportunity to comment on, the environmental consequences of a Federally funded action. This review and consultation process is used to evaluate the impact a project and its alternatives may have on the environment. The review process required by NEPA is usually the vehicle through which HRSA addresses other environmental laws and regulations.

It should be noted that compliance with other individual laws such as Floodplain Management, Wetlands, the National Historic Preservation Act, Endangered Species Act, the Comprehensive Environmental Response and Liability Act, among other Federal, State, and locally required laws, may still be required.

26. What is the National Historic Preservation Act?

The National Historic Preservation Act (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties. Federal agencies must consult with parties who have an interest in the effects of the undertaking in order to identify the affected historic properties, assess the effect of the undertaking on historic properties, and seek ways to avoid, minimize, or treat any adverse effects on historic properties.

HRSA complies with NHPA and its implementing regulations in 36 CFR Part 800, by following standard regulatory procedures, commonly referred to as the Section 106 Process. Historic properties include districts, buildings, structures, objects, landscapes, archaeological sites, and traditional cultural properties that are included in, or eligible for inclusion in, the National Register of Historic Places. These properties are not just old buildings or well-known historic sites, but places important in local, State, or national history. The National Register of Historic Places is a list of recognized historic properties. However, this list is not complete, and States may have additional properties with historic significance.

27. Do all construction and renovation projects require preparation of a draft Environmental Assessment or Section 106?

No. Some construction and renovation projects may fall under a Programmatic Environmental Assessment prepared by HRSA. The NGA should identify the environmental and historic preservation requirements needed to satisfy the condition of award. In some cases, the information submitted with the application may not have been sufficient to determine the level of compliance, and additional information may be requested.

28. Do environmental and historic preservation requirements just apply to portions of my project being funded with the Federal grant?

No. It is important to note that the environmental and historic preservation compliance requirements apply to the total scope of the project, including non-Federally funded connected actions. Also be aware the future changes in the scope of project (such as a new site, or adding parcels, or changing the configuration of the facility) may necessitate reinstatement of environmental and historic preservation conditions.

29. Can I start site or construction work on my project even though I haven't completed my environmental or historic preservation conditions yet?

The Notice of Grant Award clearly states that only non-construction preparatory activities such as architectural and engineering designs, permitting, licenses, and work related to the environmental and historic preservation reviews may be undertaken prior to the release of the environmental or historic preservation conditions. Use of grant funding to complete these activities is allowable.

At the time an award is made, grantees that proceed to undertake site preparation, construction, and renovation work without meeting the appropriate conditions do so at their own risk. If subsequent environmental or historic preservation reviews indicate site conditions or impacts that cannot be appropriately addressed or mitigated, HRSA may be unable to fund the project.

30. My NGA states that I need to consult with my Project Officer regarding CD requirements. When will my PO let me know?

CD applications have already undergone technical reviews. Contact the C8A Project Officer regarding this deliverable.

31. Is the draft EA project-specific? Since we are proposing alterations to a 10,000 square foot unit within a large existing facility, would an EA that was done earlier in 2009 be sufficient or would we need to do an EA on our proposed remodel of the interior space for use as a health center?

EAs are project specific. Some grantees that proposed alteration/renovation projects received a condition on their award informing them if a draft EA is required or if they should consult with the assigned C8A Project Officer to determine if one is required. If it is required, the draft EA must be specific to the proposed CD project. However, general information from the previous EA could serve as a base and provide much of the information that is required in the draft EA for HRSA. Additional technical assistance on the requirements of the draft EA can be found at <http://bphc.hrsa.gov/capital>.

32. One of the CD grant conditions for our construction project requires us to submit draft EA within 90 days of award issue date. We do not think we will be able to meet this deadline. The EA guidance on the CD website indicates that the EA must be submitted prior to drawing down construction funds but that architectural funds may be drawn down prior to submitting

the EA. Is it permissible for me to miss the 90 day deadline and submit the EA prior to drawing down construction funds?

Grantees should submit the draft EA, if required, as soon as possible. If grantees are not able to meet the deadline (90 days after award), send an email to the C8A Project Officer identified on the NGA with a request to extend the deadline and an explanation as to why the extension is necessary. Grantees may **NOT** begin the construction project until the draft EA has been approved by HRSA.

CHANGE IN SCOPE—SITES

33. UPDATED In our CD application, we proposed moving the clinic to a larger space. I thought the CD application instructions stated that this would be the Change in Scope request and that we did not have to submit a change per PIN 2008-01. Do we have to submit a change in scope request?

If the Form 5B and the Add Site Checklist for the new site was completed within the CD application, grantees do not need to take any further action. HRSA has reviewed new site requests and the NGA will indicate whether the site has been approved. If there are any terms/conditions listed in the NGA related to the Change in Scope, please contact the assigned C8A Project Officer to discuss.

34. If a project involving a new site is among the projects funded within the CD NGA, can we assume that it has been officially approved to be added to our scope of Federal project?

The CD NGA contains a term that approves the site address proposed in the CD application. This site will be added to the grantee's list of sites that are "Pending Verification" and the grantee will need to verify the new site is operational within 60 days of becoming operational at that site.

CHANGE OF SCOPE OF WORK—CD GRANT

35. What happens if we find we want to change our original CD project?

CD projects must be implemented as they were proposed in the application since the CD is a competitive funding opportunity. HRSA may take action to withdraw the approval and funds for the project(s) if subsequent events lead HRSA to conclude that a project as originally proposed is ineligible or cannot be completed. Subsequent events could include, but are not limited to:

- (1) The identification or previously undocumented environmental or historic preservation issues that lead HRSA to conclude a construction project cannot be carried out;
- (2) The conclusion that the project cannot be completed as proposed (e.g., information submitted through the required reporting indicates that the grantee's progress is sufficiently noncompliant with the approved scope, costs, or timeline presented in the application and that completion as proposed will not be possible); or
- (3) The conclusion that the grantee is noncompliant with a requirement of the application guidance (e.g., the CD project is not separate and distinct from a CIP project; grantee does not resolve concerns to the satisfaction of HRSA).

36. We are not able to secure the additional financing for the project we proposed. We would like to either scale back our renovations or use the CD funds to purchase equipment. Can we do this?

No. Grantees will not be able to significantly scale back projects or use CD funds to purchase equipment. Due to the competitive nature of this funding opportunity, no changes can be made given the project(s) were assessed and ranked against the review criteria established in HRSA-10-029.

37. What if we are not able to complete the construction project as originally proposed, due to unforeseen circumstances beyond our control? What can we do?

Depending on the nature of the circumstances (i.e., natural disaster), grantees may—on a case-by-case basis **ONLY**—be able to scale back projects, modify the scope of the project, or use CD funds to

purchase equipment. No significant changes can be made to CD projects. Grantees must contact the C8A Project Officer immediately to discuss options.

ADMINISTRATIVE AND POLICY REQUIREMENTS

38. UPDATED What needs to be recorded if the grantee does some work through its facilities management staff (“force account labor”) and where does information need to be sent?

HRSA needs a basic level of information in order to approve the work. A simple cost analysis that describes the amount the organization spent for its own labor and materials, and how this approach is cost effective given the amount a contractor would charge to do the equivalent work, is sufficient. Any supporting documentation should be sent to the assigned C8A Project Officer. For purposes of tracking grant expenditures, please remember to track hours spent supporting all CD activities on employee payroll records.

39. Is my project subject to the simplified acquisition threshold?

Yes. All goods and services over \$100,000 need to be competitively bid. The simplified acquisition threshold applies to good and services that are less than \$100,000. For acquisition less than \$100,000, recipients should keep in mind that they still need to get more than one quote (not bids) for the work to determine that the costs are reasonable, and the threshold shall not be broken down into several purchases or artificially reduced to smaller quantities to permit negotiations under simplified acquisition procedures.

40. Can you please clarify when it is allowable to hire/contract without competitive bidding?

The Federal Acquisition Threshold for procurement of goods and services is \$100,000; contracts of \$100,000 or more need to go through competitive bidding 45 CFR §92.36 (b) through (i). Contracts secured under the simplified acquisition procedure must still document that the grantee took actions to ensure that it is receiving the best price for the services/goods purchased (e.g., document three (3) separate price quotes for equipment and justify why one was chosen).

41. What does a grantee do if the state it is implementing a project in has more stringent requirements around procurement?

Federal law does not preempt State and local laws. The grantee must comply with State and local laws. It is the grantee’s responsibility to comply with State and local laws, and HRSA encourages grantees to ensure they are aware of and are complying with all applicable State and local laws. HRSA may not be able to fund a project that is clearly in violation of a State or local law.

42. What do solicitations for goods and services procured with CD funds need to include?

Nonprofit organizations must provide for all of the following in solicitations:

- (a) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
- (b) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.
- (c) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
- (d) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
- (e) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
- (f) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

43. What needs to be included in a contract for CD projects?

Per OMB Circular A-110 Subpart C.48, the non-profit organization (grantee) shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts. In addition to other requirements, the following provisions shall also be applied to subcontracts:

- (a) Contracts in excess of the small purchase threshold shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate.
- (b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
- (c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements shall provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds \$100,000. For those contracts or subcontracts exceeding \$100,000, the Federal awarding agency may accept the bonding policy and requirements of the recipient, provided the Federal awarding agency has made a determination that the Federal Government's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows.
 - (1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
 - (2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
 - (3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.
 - (4) Where bonds are required in the situations described herein, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR part 223, "Surety Companies Doing Business with the United States."
- (d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.
- (e) All contracts, including small purchases, awarded by recipients and their contractors shall contain the procurement provisions of Appendix A to this Circular, as applicable.

44. UPDATED Can we add our CD project to an open contract for work we have already been engaged in?

Unless the current project was specified in the scope of work of the open/existing contract, grantees **MAY NOT** piggyback onto existing, open contracts.

When a grantee enters into a service-type contract in which the term is not concurrent with the budget period of the award, the grantee may charge the costs of the contract to the budget period in which the contract is executed:

- The awarding office has been made aware of this situation either at the time of application or through post-award notification.
- The contract was solicited and secured in accordance with Federal procurement standards.
- The recipient has a legal commitment to continue the contract for its full term.

Contract costs will be allowable only to the extent that they are for services provided during the grant's period of performance. The grantee will be responsible for contract costs that continue after the end of the grant budget period.

45. UPDATED What requirements exist regarding competitive bidding and contractors that developed components of the CD application?

Per 45 CFR §74.43, procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, **open and free competition**. The recipient shall be alerted to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft grant applications, or contract specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the recipient, price, quality and other factors considered. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the recipient. Any and all bids or offers may be rejected when it is in the recipient's interest to do so. Requests to deviate from this requirement must have prior approval from HRSA and have a supportable justification.

46. Are non-profit organizations that received CD grants required to contract with small businesses and minority- and women-owned businesses?

Per 45 CFR §74.44, positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of HHS awards shall take all of the following steps to further this goal.

- (i) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- (ii) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- (iii) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- (iv) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
- (v) Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms, and women's business enterprises.

47. What types of procurement instruments can health centers use to establish contracts?

Per 45 CFR §74.44, the type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting shall not be used.

48. What do solicitations for goods and services procured with CD funds need to include?

Per 45 CFR §74.44, nonprofit organizations must provide for all of the following in solicitations:

- (i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
- (ii) Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals.

- (iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
- (iv) The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitation.
- (v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
- (vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

49. What level of cost/price analysis should grantees perform on bids for contracts?

Per 45 CFR §74.44, some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicia, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability, and allowability.

50. Does the grantee need to publish the results of an open but private bid?

The grantee does not need to publish the results but does have to document the rationale for the selected contractor and ensure that the selection criteria were evenly applied to all bids.

REPORTING

51. I am aware of the reporting requirements under the ARRA. What are the other reporting requirements listed in my NGA?

The Reporting Requirements section of the NGA lists out specific deliverables required of all CD projects for both construction and alteration/renovation. These requirements allow HRSA to monitor the progress of grantees and to ensure that projects are progressing as they were proposed in the CD application. Failure to comply with these reporting requirements will result in deferral or additional restrictions of future funding decisions.