



MEMO

TO: CDBG-DR & MIT Program Files
FROM: Justin Holder, EIT CDBG-DR & MIT
DATE: July 9, 2020
RE: **Cost Reasonableness for CDBG-DR & MIT Infrastructure Projects**

Per recent meetings with HUD Technical Assistance it has come to city staff's attention that the procedures for procurement of new contracts and Change in Services (CIS) needs to be revised in regards to Cost Reasonableness for CDBG-DR & MIT Infrastructure projects.

Currently, with each new contract or CIS procurement, City Staff has been tasked with providing an independent cost estimate. The estimate is prepared based on a negotiated scope of work that is agreed upon prior to receiving a fee proposal from the consultant. An analysis is conducted to compare the independent estimate and consultant fee proposal and the result is presented in the "Cost Reasonableness Memorandum" for each contract. In our experience, this effort is causing a delay in execution of the contracts and Change in Services, that is not necessary. According to 2 CFR 200.323 a cost and price analysis is required for procurements over the "Simplified Acquisition Threshold". As such the new procedure will be for City Staff to prepare independent cost/price estimates only when the procurement exceeds the "Threshold".

As of this date, July 9, 2020, the Simplified Acquisition Threshold is \$150,000.

A Cost Reasonableness Memo will continue to be provided for each procurement. However, it need not include an independent estimate unless the procurement exceeds the "Threshold". Each consultant has been qualified for "on-call" services based on their credentials for the CDBG-DR & MIT projects and their billing rates are established when selected. Rates are not necessarily subject to change based upon the scope/tasks assigned with new contracts or CIS. Therefore, fees for each scope are based upon the hours anticipated and the personnel performing the tasks.

Moving forward, a "Cost Reasonableness Memorandum" for new contracts and CIS for CDBG-DR & MIT infrastructure projects that fall under the "Threshold" may simply include a statement regarding the justification for fees agreed upon based upon the personnel and hours anticipated for completing assigned scope. As typical, the consultant will continue to provide detailed backup showing their fee proposals breakdown for inclusion in contract documents.

§ 200.88 – Simplified acquisition threshold.

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation. (Also see definition of §200.67 Micropurchase.)

§ 200.323 - Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E - Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.