

VERMONT HOUSING AND CONSERVATION BOARD
Procurement Guidelines for Housing Grantees &
Disbursement Procedures during Construction

The following procurement and disbursement procedures are intended as guidelines for housing grantees and reflect generally accepted procurement practices as described at 2 CFR Part 200, particularly Sections 200.317 through 200.326. Any alternative procurement plans not meeting these guidelines require prior review and approval by VHCB housing staff. Please note other non-VHCB funding sources may have additional requirements.

General Procurement Guidelines

VHCB expects grantees to follow sound and reasonable business practices when selecting contractors. Grantees should ensure that the contractor is qualified to provide the scope of work at a cost consistent with prevailing rates for similar services or products. Contracts should be awarded to contractors who possess the ability to perform successfully with consideration given to contractor integrity, past performance, financial and technical resources. General considerations include:

- All transactions shall be conducted in a manner that provides maximum open and free competition.
- Prequalifying contractors for large jobs is encouraged.
- Contractors who develop specifications or cost estimates may not bid on proposed work.
- Solicitations should be based on clear and accurate work descriptions (that include the expected deliverables) and should include the factors by which the quotes/proposals/bids will be evaluated.

In all cases, grantees must document the contractor or vendor selection process that was utilized, including: a) how quotes/proposals/bids were solicited, b) a list of the quotes/proposals/bids received, and c) an explanation of why a particular contractor/vendor was selected. Grantees must provide documentation to VHCB upon request.

Procurement

The procurement of construction and construction-related goods and services, such as buying supplies, retaining design professionals and awarding construction contracts on VHCB-funded projects is subject to the requirements of Procurement Standards of the federal Uniform Guidance at 2 CFR Part 200.318, as well as the specific VHCB requirements outlined below:

Contracts for \$10,000 or less (Micro-Purchase)

May be awarded at grantee's discretion, however competitive bids from more than one source are recommended.

Contracts greater than \$10,000 but less than \$250,000 (Small Purchase)

Written quotes from at least three qualified sources are recommended. If fewer than three quotes are solicited or received, a written explanation of the selection process must be on file, and the quality and cost reasonableness of the selected contractor/vendor must be demonstrated. In general, awards should be made to the proposal from a qualified bidder that is most advantageous to the project, with consideration of price as well as other factors, as specified in the request for proposals/bids.

Contracts over \$250,000 (Large Purchase)

Bids must be solicited through formal, public advertising. Prequalifying contractors is encouraged and sealed bids are recommended. When sealed bids are used, the contract shall be awarded to the responsive qualified bidder whose conforming bid was the lowest.

Sole Source

There may be some instances where procurement from a sole source is appropriate (for example, highly specialized trades for which there are a limited number of professionals in the area), however the justification must be very carefully documented. Contracts \$10,000 or greater that are sole sourced require pre-approval from VHCB staff.

RFP/RFB language

Public advertisements must include language that encourages minority and women-owned businesses as well as small, locally owned businesses to apply. For contracts being paid in part or full with HOME, HTF, or other federal funds through VHCB, advertisements should also include language encouraging Section 3 businesses to apply. (There are additional federal contractor debarment/eligibility and Section 3 requirements for the use of HOME or HTF funds. See VHCB's HOME Handbook Chapter 10: Procurement and VHCB's Section 3 Policy for more details. HTF follows the same procurement guidelines as HOME).

Bonding and Insurance

For all contracts greater than \$250,000, a 5% bid bond and 100% payment and performance bonds are required. Alternatively, a 25% irrevocable letter of credit may be substituted for any of the above required bonds.

Grantees are responsible for determining the level and type of insurance that they wish to have provided by the contractor. Suggested minimum levels include:

- Comprehensive All Risk Motor Vehicle Liability Insurance, with minimum combined limit of \$1,000,000.
- Comprehensive General Liability (CGL) insurance (bodily injury and property damage) with a minimum per occurrence, general aggregate, and products/completed operations aggregate of \$1,000,000.
- Any other insurance required by law, including but not limited to workers' compensation.

A unified owner's insurance package (where the owners, any limited liability corporations, the contractor, and potentially the architect all buy insurance from the same firm for a specified project) is strongly preferred.

The policy shall name VHCB and its officers and employees as additional insureds for liability arising out of the contract. Documentation of insurance may be requested by VHCB.

Construction

There are two acceptable types of construction contracting: using a general contractor (GC) or using a construction manager (CM).

Under the GC model, the grantee only works directly with the GC with whom they have one single contract. The GC hires subcontractors, but the grantee does not have any involvement in that process.

Under a CM model, the grantee has a direct contractual relationship with all of the individual subcontractors, as well as the construction manager. The CM may perform some of the construction work, but their primary job is to bid out the subcontracts and manage the construction process with input from the grantee.

When a construction manager is used, and the sum of all subcontracts for construction work exceeds \$250,000, the project and the individual subcontracts must be publicly advertised. Documentation may be requested by VHCB.

Turnkey Projects: VHCB may include additional special conditions on awards for turnkey projects.

VHCB may permit grantees to be their own construction manager in certain circumstances, provided that they have a qualified construction professional on staff to manage the work (e.g.: rehab specialist, clerk of works, or architect). Pre-approval from VHCB staff is required.

Retainage

For construction contracts, VHCB requires that grantees retain 10% of the contract amount until the project is substantially complete. For large projects (over \$3,500,000) retainage may be reduced to 5% at 50% completion (i.e. no additional retainage is held from the time of 50% completion until 100% completion). Disbursements of federal funds (ex. HOME, HTF) by VHCB for construction costs will only be made for completed work in place and will be based on the percentage of completion of the total amount of work covered by the contract, less 10% retainage, as verified by the construction inspector.

Escrowing work remaining and punchlist items

For construction work remaining due to seasonal or weather related restrictions, VHCB recommends holding in escrow at least 100% of the value of that work, as certified by the architect/engineer. For punchlist items, VHCB recommends holding a punchlist escrow of at least 200% of the value of that work.

Final title opinion

Please be advised that a standard condition of VHCB grant agreements requires a final title opinion upon project completion.

Disbursement Procedures for Construction

Prior to first construction disbursement, Grantee must provide an executed construction contract(s) and a copy of the performance and payment bond or letter of credit if applicable. Upon request, a bid summary may be required as well.

Except under certain circumstances, disbursements shall not be made more frequently than once a month. Grantees should submit requests to housing staff and expect two weeks to receive a check.

For each disbursement request, the grantee must submit a copy of the AIA form G702 Application and Certificate for Payment (or an alternative form acceptable to VHCB) signed and notarized by the contractor, and certified by the third party architect or project manager. A continuation sheet (G703) should be attached which corresponds to the schedule of values set forth in the construction contract. Please be sure to include any change orders. Grantees should be aware that construction disbursements of HOME and HTF funds must be verified by third-party inspection. VHCB contracts for these inspections.

For those jobs where there is a general contractor, disbursement requests must include a lien waiver provided by the general contractor for payment received to-date or an updated title opinion.

For construction jobs with a construction manager, disbursement requests for multiple contracts must be submitted on one AIA contract form that incorporates all the construction subcontracts with a combined schedule of values. This will be the basis for all disbursements, retainage, and certifications. The AIA form must be signed by the construction manager and notarized, and certified by a qualified third party.

In the above case, disbursement requests must include lien waivers provided by each contractor for payment received to-date regardless of contract amount or an updated title opinion.