



PROCUREMENT

CDBG-DR

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1. Overview

The purpose of this Procurement Policy is to establish clear, consistent, and compliant procedures for the procurement of goods, services, and construction using Community Development Block Grant Disaster Recovery (CDBG-DR) funds. This policy ensures that all CDBG-DR-related procurement activities are conducted in a manner that promotes integrity, transparency, fair competition, the effective use of federal disaster recovery resources, and in full compliance with applicable laws and regulations.

The County of Maui Office of Recovery (OOR) will conduct all CDBG-DR procurements in accordance with:

- The County of Maui Purchasing Policy & Procedures Manual
- The HUD CDBG-DR Universal Notice (90 FR 1754, as amended): Guidance for CDBG-DR Grantees including procurement-specific directives.
- 2 CFR Part 200.318-327: Uniform Administrative requirement and procurement standards for recipients of federal Awards
- Appendix II to Part 200: Required contract clauses for non-federal entity contracts under federal awards
- Hawaii Revised Statutes (HRS) Chapter 84 and 103

In instances where these authorities differ, the County OOR will adhere to the most restrictive requirement to ensure the highest standards of accountability and compliance in the use of CDBG-DR funds.

Procurement Thresholds

The County's procurement thresholds are as follows:

- Micro Purchases: Procurements up to \$1,000.
- Small Purchases: Procurements over \$1,000 and up to \$25,000.
- Formal Procurement Methods: Procurements exceeding \$25,000 require formal methods such as competitive sealed bidding or proposals.

These thresholds align with the County of Maui Purchasing Policy and Procedures Manual ¹(Section 7: Small Purchases; Section 4: Competitive Sealed Bidding) and are consistent with federal regulations under 2 CFR 200.320, ensuring that procurement activities are conducted efficiently while maintaining compliance with all applicable standards.

Although federal regulations (2 CFR § 200.320) set the Simplified Acquisition Threshold (SAT) at \$250,000, the County of Maui uses lower, more restrictive thresholds based on its own policy. For federally funded purchases, the County follows the strictest rule that applies. This means formal procurement methods are required for purchases over \$25,000, even though federal rules allow informal methods up to \$250,000. This approach complies with 2 CFR § 200.318(a), which allows

¹ County of Maui Department of Finance Purchasing Policy and Procedure Manual August 2023

local governments to use their own procurement procedures—as long as they also meet federal standards.

Formal procedures for all purchases by CDBG-DR can be found in the County of Maui Purchasing Policy and Procedures Manual.

2. Guiding Principles

a. Transparency and Accountability (2 CFR 200.318)

The County OOR ensures that all CDBG-DR purchases are made in a clear, open and responsible way. Following 2 CFR 200.318, HRS103D-101 and HRS103D-320, the County OOR must manage procurement carefully, avoid conflicts of interest, and keep records that show how decisions were made. The County OOR will:

- Post bid opportunities publicly
- Keep records of bids, proposals, and awards
- Avoid favoritism or personal gain
- Make sure all vendors are eligible and qualified
- Keep procurement records on file for at least 3 years

By following these rules, the County OOR protects public funds, meets federal requirements, and builds trust with the community.

b. Conflict of Interest (2 CFR 200.318(c)(1); HRS Section 103D-101)

The County OOR follows strict conflict of interest and ethics rules in all procurement activities, as required by 2 CFR 200.318, HRS Section 103D01010(a), and HAR 3-131. The County's Purchasing Policy and Procedure Manual outlines these standards to ensure that employees, officers, agents, and elected officials act in the best interest of the County and its taxpayers.

No one involved in the selection, award, or administration of contracts funded by federal awards may take part if they – or their family members or business partners – have a real or apparent financial interest in the outcome.

c. Fair and Open Competition (2 CFR 200.319; HRS Section 103D-101(a.6))

The County OOR must ensure that all vendors have a fair chance to compete. No specifications or practices can favor one contractor over another. All procurements are open to qualified vendors and must not include unnecessary requirements that limit competition.

d. Cost Reasonableness (2 CFR 200.404)

Hawai'i procurement law requires agencies to ensure that prices paid for goods and services are fair and reasonable. To do this, staff responsible for procurement activities must research market

rates, compare prices from multiple sources, and evaluate cost data. This helps determine whether pricing is competitive and justified.

- HRS 103D-312 requires staff to obtain cost or pricing data to ensure purchases are made at fair and reasonable prices.
- HAR 3-122-130 outlines that price reasonableness can be established by comparing prices with other offers, independent estimates, or historical pricing.

e. Risk Mitigation and Internal Controls (2 CFR 200.303; 200.318(i))

The County OOR is required to implement controls to prevent fraud, waste, abuse or misuse of funds. These controls include clear approval processes, separation of duties, proper documentation, and oversight of subrecipients and contractors. These controls are further supported by the CDBG-DR's Fraud, Waste Abuse Policy², which outlines procedures for detecting, reporting, and addressing suspected incidents of fraud, waste, and abuse in connection with federally funded disaster recovery activities.

3. Roles and Responsibilities

a. Chief Procurement Officer (CPO)

The CPO, appointed by the County's Director of Finance, oversees all County procurement activities. They ensure purchases follow laws, policies, and procedures, and provide guidance to departments.

b. Department Directors

Department Directors are responsible for ensuring their departments' purchasing activities are in accordance with the rules and regulations.

c. Department Staff

Department staff play a key role in ensuring procurement is done properly, fairly, and in compliance with regulations. Their responsibilities are outlined below, with further details provided in later sections of this policy:

- Planning the purchase
- Following procurement rules
- Obtaining quotes or bids (for purchases greater than \$1,000)
- Documenting the process
- Ensuring Compliance
- Monitoring the contract

² CDBG-DR Fraud, Waste, and Abuse Policy

4. Procurement Planning

a. Needs Assessment and Market Research

Prior to making a purchase, the County identifies what goods or services are required and conducts market research to evaluate available vendors, pricing, and market conditions. This process helps ensure that procurements are competitive, cost-effective, and align with project goals. This guidance encourages early planning to reduce delays and increase competition.

b. Cost Estimation and Budgeting (2 CFR 200.318(d))

Departments must prepare cost estimates before soliciting bids or proposals to ensure the County budgets appropriately and can compare actual offers to reasonable expected costs.

A cost estimate should be a documented, itemized projection of anticipated costs based on the planned scope of work. It may include:

- Materials – Item type, quantity, and unit cost.
- Labor – Estimated hours multiplied by wage rates (including fringe).
- Equipment – Rental or purchase cost of tools and machinery.
- Subcontractors or Professional Services – Projected fees based on typical market rates.
- Indirect Costs – If applicable, allowable overhead or administrative costs.
- Contingencies – a small percentage (5-10%) for unforeseen needs

According to Buying Right: CDBG-DR and Procurement – A Guide to Recovery, key steps in developing a reliable cost estimate include:

1. Define the Scope of Work – Clearly outline the deliverables, location, performance standards, and timelines.
2. Conduct Market Research – Review current market conditions, historical purchase data, and catalogs or price lists.
3. Use Comparable Projects – Reference costs from similar recent procurements, adjusting for inflation, location, or project complexity.
4. Consult Industry Standards – Use standard estimating guides such as Xactimate or consult with engineers, estimators, or professionals in the field.
5. Document the Estimate – Include all assumptions, data sources, calculation methods, and justifications for figures.
6. Update Estimates When Necessary – If the scope of changes or a significant delay occurs, revise the estimate to reflect new conditions.

Properly developed cost estimates improve transparency, fairness, and budgeting accuracy, and are required documentation for HUD monitoring and audits.

5. Procurement Methods and Thresholds

Procurement methods shall align with the more restrictive of the County's thresholds or federal requirements. For more information on the procurement process, please refer to the County of Maui Purchasing Policy and Procedure Manual.

a. Informal Procurement Methods

In accordance with 2 CFR 200.1, the Simplified Acquisition Threshold (SAT) is the dollar amount below which a non-Federal entity may use small purchase procedures. The SAT is established by the Federal Acquisition Regulation (FAR) at 48 CFR Subpart 2.1 (specifically § 2.101) and is currently set at \$250,000.

The County maintains a more restrictive internal small purchase threshold of \$25,000. Therefore, for purchases below \$25,000, the County may use informal procurement methods (e.g., micro-purchase or small purchase procedures), provided all such methods meet the standards of 2 CFR 200.320.

i. Micro-Purchases < \$1,000

Pursuant to 2 CFR 200.320(a)(1), the federal micro-purchase threshold is currently set at \$50,000. However, the County has adopted a more restrictive internal micro-purchase threshold of \$1,000.

According to the County's procurement policy, micro-purchases are subject to the following guidelines:

- Micro-purchases apply to non-construction goods or services with a total cost under \$1,000. These purchases may be made using a County-issued P-Card, in accordance with the procedures outlined in Section 12 of the County's Procurement Manual.
- Competitive quotes are not required for micro-purchases if the price is determined to be reasonable based on previous purchases, market research, or other price comparisons.
- When feasible, micro-purchases should be distributed equitably among qualified suppliers to encourage fair competition and broaden vendor participation.

ii. Small Purchases ≥ \$1,000 and < \$25,000

According to the County's procurement policy, small purchases apply to goods, services, and construction with a total cost equal to or greater than \$1,000 but less than \$25,000. The following guidelines apply:

- Construction:
 - For purchases under \$5,000, multiple quotes are recommended but not required.
 - For purchases between \$5,000 and \$24,999, three written quotes are required.
- All other purchases (non-construction):
 - For purchases under \$5,000, three verbal quotes are required.
 - For purchases between \$5,000 and \$24,999, three written quotes are required.

See Appendix 2b for purchasing scenarios.

b. Formal Procurement Methods ≥ \$25,000

When the cost of goods or services is above the County's threshold, the County OOR must use formal procurement procedures. This includes

- Following written, documented steps, and
- Advertising the opportunity publicly, unless a sole-source (non-competitive) method is allowed under 2 CFR 200.319

i. Sealed Bids (Formal Competitive Bidding)

Sealed bidding is used when the County OOR publicly asks for bids and awards a firm fixed-price contract to the lowest responsible bidder who meets all the requirements. This is the preferred method for construction projects when:

- Sealed bidding is appropriate
- Clear and complete specifications are available
- At least three qualified bidders are expected to compete
- A fixed-price contract is suitable, and the winner can be chosen based mostly on price.

If sealed bids are used, the County OOR Must:

- Put together an independent cost estimate (ICE) prior to awarding the contract.
- Advertise the invitation for bids publicly and give vendors enough time to respond.
- Include detailed specifications in the bid documents so vendors know exactly what's needed.
- Open all bids at the stated time and place and do so publicly for transparency.
- Award the contract in writing to the lowest responsible bidder.
- Consider extra factors like transportation costs or life cycle costs, if listed in the bid.
- Reject bids if there's a valid documented reason.

ii. Competitive Proposals (RFP)

RFPs are used when sealed bids aren't a good fit, such as when price isn't the only factor in choosing a vendor. Contracts can be fixed-price or cost-reimbursement.

Key Requirements for Using Proposals

- An RFP must be publicly posted and clearly list how proposals will be judged.
- Proposals should be received from enough qualified vendors, and all responses must be considered fairly.
- An ICE must be done before the award by someone not involved in the contract.
- The County OOR must follow a written process to review proposals and choose the best one based on price and other important factors.
- Contracts must go to the responsible offeror whose proposal is the most advantageous, not necessarily the lowest price.

iii. Special Rules for Architectural and Engineering (A/E) Services

The County OOR may use a qualifications-based selection (RFQ) process. In this method, vendors are chosen based on qualifications first, then price is negotiated later. This method can only be used for Architectural and Engineering services, not for other types of work, even if an A/E firm offers them.

c. Noncompetitive (Sole Source) Procurement

The County OOR may only use non-competitive (Sole Source) procurement in limited situations allowed by 2 CFR 200.320(c). It is permitted only if one or more of the following apply:

- The purchase is under the micro-purchase threshold
- The item or service is only available from one source
- There is a public emergency, and delay from a competitive process would cause harm
- The Federal Agency or pass-through entity gives written approval
- After trying to compete, the County determines there is not enough competition

Even when using this method, the County OOR must:

- Prepare an independent cost estimate, and
- Keep detailed documentation explaining why this method was chosen.

d. Intergovernmental or Cooperative Agreements (2 CFR 200.318(e))

The County OOR may use contracts or price lists from other government agencies, such as the State of Hawaii or federal programs to purchase goods or services. This is called cooperative purchasing or piggybacking. This method helps save time and money by using pre-approved vendors and pricing. To use this option, the original contract must have been:

- Competitively procured, and
- Available for use by other public agencies

6. Contracting Requirements

a. Mandatory Contract Provisions (2 CFR 200.327 and Appendix II)

Every contract funded with federal money must include specific clauses required by federal law, such as:

- Equal Opportunity (2 CFR Part 200, Appendix II(C))
- Davis-Bacon (for construction) (2 CFR Part 200, Appendix II(D))
- Contract Work Hours and Safety Standards (2 CFR Part 200, Appendix II(E))
- Clean Air and Water Acts (2 CFR Part 200, Appendix II(F))
- Anti-lobbying rules (2 CFR Part 200, Appendix II(I))

The clauses mentioned protect worker rights and ensure compliance with federal funding rules.

b. Time-and-Materials Contract Limitations (2 CFR 200.318(j))

Time-and-materials contracts (where payment is based on hours worked and materials used) should only be used if not other type of contract is suitable. These contracts must have a clear cost cap and closely monitored so spending doesn't get out of control.

c. Contract Monitoring and Administrations (2 CFR 200.318(b))

Once a contract is awarded, the County OOR must:

- Monitor performance
- Review invoices and deliverables, and
- Ensure the contractor meets all terms of the agreement

i. Monitoring Performance

Once a contract is awarded, the County OOR must monitor the contractor's performance to ensure the work is completed on time, within budget, and in according to contract terms. This includes reviewing deliverables, tracking progress, inspecting work, and documenting any issues. Monitoring helps prevent delays, cost overruns, and non-compliance.

ii. Change Orders

A change order is a formal modification to a contract when adjustments are needed – such as changes in scope, cost, or timeline. All change orders must be documented, justified, reviewed for cost reasonableness, and approved according to the County and Federal rules. Unauthorized changes or cost increases are not allowed.

iii. Bidder Contesting (Protests)

Bidders have the right to contest or protest procurement decisions if they believe the process was unfair or violated procurement rules. Protests must follow the procedures set in County policy and applicable state laws. The County OOR must respond within a set timeframe, review the protest, and document the resolution process. Refer to the County of Maui Purchasing Policy and Procedures Manual for more detail on protests.

7. Vendor Eligibility and Compliance

Prior to awarding a contract, the County OOR must make sure vendors are eligible, responsible and in good standing. This includes:

- Checking SAM.gov and Debarment Checks (2 CFR 200.214) to confirm the vendor is not suspended or debarred from receiving federal funds.
- Verify compliance through Hawaii Compliance Express (HCE) to ensure vendor meets state tax, labor, and business requirements (HRS Chapters 383, 386, 392 and 393).
- Vendor Responsibility Reviews and Certification – review past performance and financial stability to confirm the vendor can complete the work.

8. Program Implementation and Oversight

a. Subrecipient and Contractor Oversight and Monitoring (2 CFR 200.332)

The County OOR must monitor subrecipients and contractors to make sure they are following local rules. Subrecipients and contractors must follow all applicable procurement rules when using CDBG-DR funds. They must keep records, avoid conflicts of interest, and ensure fair competition (2 CFR 200.318-327). County Policy applies when subrecipients adopt local standards.

b. Performance Reviews (HUD Universal Notice III.F)

The County OOR must regularly review the progress of programs and projects to ensure they are meeting goals, staying on budget, and following all CDBG-DR rules.

c. Environmental Review Compliance (24 CFR Part 58)

Environmental reviews are required for all CDBG-DR programs and activities in accordance with 24 CFR Part 58. Activities categorized as Exempt or Categorically Excluded Not Subject to §58.5 such as general administrative and management tasks, are not subject to full environmental review requirements but must still be documented as such.

Before starting any construction project, the County OOR must complete an environmental review to ensure it will not harm the environment or public health. The project cannot move forward until HUD approves the review or issues a release of funds.

9. Use of CDBG-DR Funds as non-Federal Match

All County purchasing must comply with the State of Hawaii procurement laws, administrative rules, and applicable County ordinances. However, in instances where CDBG-DR funds are used to satisfy non-Federal cost share (match) requirements for other federally funded programs (e.g., FEMA Public Assistance or Hazard Mitigation Grant Program), the County OOR may adopt the procurement policies and procedures of the primary federal funding agency, as permitted under Section III.B.7.b of the HUD CDBG-DR Universal Notice.

Pursuant to Hawaii Revised Statutes §103D-102(a), the County may deviate from state procurement requirements when necessary to comply with the terms and conditions of a federal grant, cooperative agreement, or similar funding arrangement. Such deviations must be limited to those necessary to avoid a conflict between state law and federal funding requirements.

The County OOR will ensure:

- All procurement activities are conducted in a manner that ensures full and open competition and accountability
- Compliance with all applicable CDBG-DR cross-cutting requirements, including but not limited to civil rights, environmental review, labor standards, and Section 3

- Cost or price analysis is performed and documented for every procurement action in excess of the simplified acquisition threshold
- Documentation of its decision to apply the alternate procurement standards and maintains such documentation in the procurement file
- Projects using CDBG-DR funds as match are identified and tracked in accordance with the Action Plan and DRGR reporting requirements
- Solicitations and contracts include all required disclosures and provisions that align with both the primary federal program's requirements and applicable CDBG-DR obligations

10. Internal Controls, Audits, Records, and Retention

a. Internal Control Requirements (2 CFR 200.303)

The County must have systems in place to prevent fraud, waste, and abuse. This includes:

- Clear roles and responsibilities
- Separation of duties
- Regular oversight, and
- Procedures to detect and correct problems

These controls help ensure that federal funds are used properly and according to the rules. For further information on fraud, waste and abuse, refer to the Fraud, Waste, and Abuse Policy.

b. Documentation and File Retention

The County must keep complete and organized records of all procurement actions (2 CFR 200.318(i)). This includes:

- Bid solicitations, quotes, and contracts
- Justifications for decisions, and
- Any approvals or exceptions

Records must be kept for a period of not less than five years after the fiscal year of their grant or at least 3 years **after** final payment or grant closeout of the grant from HUD, whichever is longer.

All procurement records and documentation related to real property acquisitions must be retained permanently. In accordance with HUD regulations, a "change of use" for any property acquired with HUD funds is not permitted without prior HUD approval and the completion of the required comment period. As such, these records are subject to "forever" retention to ensure compliance with federal oversight and future audit requirements.

Appendix A: Procurement Workflow and Lifecycle

To promote clarity and ensure compliance with 2 CFR 200.318–327 and HUD’s Universal Notice, the County of Maui has established the following procurement workflow for all CDBG-DR funded activities. This flowchart represents the end-to-end lifecycle of a compliant procurement process.

County of Maui – CDBG-DR Procurement Flowchart



Appendix B: Purchasing Scenarios

a. Micro Purchase < \$1,000.00

CDBG-DR staff needs reams of paper for the copying Machine, the secretary will compare prices from Amazon, Office Max, and Costco to determine the best price, and make the purchase using the County issued P-Card since the purchase is less than \$1,000.00.

b. Small Purchase < \$25,000.00

CDBG-DR requires new office flooring due to water damage. A CDBG-DR employee will conduct the following tasks:

1. Reach out to three different flooring companies, provide type of flooring, and general scope of work to schedule a date and time with each company to measure the area.
2. Once the employee meets with each company and obtains the square footage, and scope of work (including existing flooring removal, floor prep, etc.), the employee uses an online estimating tool to calculate an estimate of how much the work will cost.
3. Once the employee receives the quotes from the companies:
 - a. The quote is compared to the estimated created by the employee.
 - b. The employee selects the lowest bidder
 - i. Verifies the bidder is in compliance using HCE and Sam.gov
 1. If the vendor is not in compliance – the employee attempts to reach out to the vendor to get the vendor to obtain compliance.
 - a. If the vendor does not agree, or respond, the employee verifies compliance of the next lowest bidder to move forward with quote.
 - c. The employee completes the County of Maui Record of Procurement (Appendix c.) and a Purchasing Requisition form (Appendix d.) to obtain a purchase order to attach to invoice for payment upon completion of work.

Appendix C: County of Maui Record of Procurement



COUNTY OF MAUI RECORD OF PROCUREMENT

(required for small purchase procurements from \$1,000.00 to less than \$25,000.00 (HRS-103D-305))

- A. Department/Division/Section _____
- B. Description of good/service/construction to be procured (not required if description on paper or electronic requisition is adequate)

- C. Quotations solicited (obtain no less than 3 verbal quotations for purchases from \$1,000.00 to \$5,000.00 (except construction), or 3 written quotations for purchases from \$5,000.00 to \$25,000.00)
- | Vendor Name/Contact | Phone No. | Quote date | Amount | Award To: |
|---------------------|-----------|------------|--------|--------------------------|
| 1. _____ | _____ | _____ | _____ | <input type="checkbox"/> |
| 2. _____ | _____ | _____ | _____ | <input type="checkbox"/> |
| 3. _____ | _____ | _____ | _____ | <input type="checkbox"/> |
| 4. _____ | _____ | _____ | _____ | <input type="checkbox"/> |
| 5. _____ | _____ | _____ | _____ | <input type="checkbox"/> |
- D. Justification for award to other than lowest responsible/responsive bidder (ref HAR 3-122-75(e))
☐ _____

- E. Justification for inability to obtain a minimum of 3 written quotes, if applicable (ref 3-122-75(d))
☐ _____

- F. 3 quotes are not required because of one of the following exceptions apply to this procurement:
1. This procurement is part of existing contract/price list/cooperative procurement, annual bid, etc. which has already been procured (list reference number and lead jurisdiction if applicable)
☐ _____
2. This procurement qualifies as a statutory sole source under HAR 3-122-81 (list title and reference number)
☐ _____
3. This procurement is exempt from the procurement code under HAR 3-120-4 (list exemption title & number)
☐ _____
- G. Hawaii Compliance Express document attached for procurements over \$2,500.00. ☐
- H. Employee conducting procurement (no signature required if attached to electronic requisition).

Print Name/Signature

Date:

