

## APPENDIX K

### PROCUREMENT POLICY

#### ADOPTED MDOC PROCUREMENT POLICY

After announcing and holding a public hearing on April 16, 1998 and receiving written testimony on a new, proposed procurement policy, MDOC adopted a policy that grant administration services (consulting services) for CDBG, HOME (excluding Community Housing Development Organizations) and TSEP grants be procured using the following procedures:

1. Requests for Proposals (RFPs) are required for any services over \$100,000 and are recommended for procurement under \$100,000 that are complex and/or where qualifications and desired work products cannot easily be handled by telephone rate quotations. Additional guidelines on the use of RFPs for HUD funded projects can be found in HUD Notice CPD-96-05, available from MDOC.
2. HUD "small purchase" procedures can be used where the procurement will not cost more than \$100,000 in the aggregate, and where the procurement is relatively simple and a selection decision can be made based on three to five rate and work plan quotations from qualified sources. The grantee should record the rate or quote along with other identifying information (name, address, and phone) and document the questions asked. If the selection is made using small purchase procedures, the grantee should also contact the Montana Department of Transportation (MDOT) to obtain a list of Minority Business Enterprises/Disadvantaged Business Enterprises (MBE/DBE) certified firms within the region that appear in MDOT's directory in order to invite proposals from qualified MBE/DBE firms.
3. If a local government's procurement policy is more restrictive than MDOC procedures, the local government's policy will govern the procurement procedures to be followed.
4. Based upon additional guidance from HUD, these MDOC procurement requirements would not apply to the formation of long-term partnerships between a local government and a for-profit or non-profit partner when the partnership has a current legal relationship (signed contract), the partner is managing the grant funds, the local government does not have the staffing capability to manage the grant, and the relationship will continue indefinitely following project closeout.

A "long-term relationship" exists where services to be provided are an integral component of the project or activity and are essential to or necessary for the long-term operation of the facility after closeout. This long-term relationship must be clearly spelled out in the proposed management plan submitted as part of the grant application. The key principle is that the for-profit or non-profit entity must have a preestablished, long-term integral role in the continued operation or management of the facility or activity after project closeout. The

non-profit or for-profit must be accountable to the recipient of the grant for the use of funds provided.

A "partnership" is viewed by the state as a long-term, mutually beneficial relationship as determined by the local government. The partnership agreement must be in place before submission of the grant application to MDOC. A partnership would include relationships that will continue indefinitely following formal project closeout. Examples of "long-term partnerships" would include:

- Relationships where a non-profit or for-profit entity, on behalf of a local government, initially administers a CDBG or HOME project and also manages the revolving loan fund (RLF) or program income fund resulting from loan repayments generated by the project.
- For a CDBG economic development RLF capacity-building project, a local government or group of local governments have agreed through a contractual relationship to build capacity in the nonprofit entity over the long-term.
- A local housing authority administers a low income housing project for the long-term, or a non-profit entity owns and operates an affordable housing project. Termination of the relationship would depend upon the terms and conditions of the contract between the local governing body and the non-profit or for-profit entity.
- A Human Resources Development Council (HRDC) proposes to construct and operate a Head-Start center on behalf of a Montana county. In this case, MDOC would not require the recipient county to go through a procurement process for grant administration services. The county commissioners would have the discretion to have the HRDC provide CDBG or HOME grant administration services without a competitive grant procurement process. A for-profit or non-profit entity is established as the management consultant for the long-term management of an economic development revolving loan fund. This would be permitted only in those cases where there is a clear, long-term relationship and intent to manage the revolving loan fund indefinitely into the future.
- A local government applying on behalf of a non-profit entity which proposes to construct, own, and operate an affordable housing project or public facilities project. In this case, the county or city would have the option of not requiring a competitive procurement process for grant administration services if those services would be provided by the non-profit organization that would own and manage the affordable housing or public facility project into the future.

**A long-term partnership arrangement would not include contractor relationships where the for-profit or non-profit entity is paid by the grantee solely for project administrative services, over the project contract period, or until formal project close-out by MDOC, and payment is made as regular compensation for services rendered during the term of the contract.**