

DCED will also reduce the annual number of formula contracts awarded each year starting with FFY 2015 funds. Beginning that year, DCED will require counties to administer CDBG funds for boroughs and townships receiving a formula allocation from DCED.

B. CPD – Exhibit 3-18

See attach HUD document titled Exhibit 3-18

II. PROCUREMENT

2. Commonwealth Procurement Handbook –

<http://www.dgs.pa.gov/State%20Government/Materials-and-Services-Procurement/Procurement-Handbook/Pages/default.aspx>

a. Commonwealth Procurement Code - see attached copy and specifically reference pages 13-16 for:

Section 513 – Competitive Sealed Bids

Section 514 - Small Purchases

Section 515 - Sole Source Procurement

Section 518 – Competitive Selection Procedures for Certain Services

ATTACHMENT 11 - Commonwealth Procurement Comparison Chart

b. Management Directive 305.20 – see attached copy which identifies unit responsibilities

III. PREVENTION OF DUPLICATION OF BENEFITS

1. a. and b.

In general, section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act (42 U.S.C. 5155), as amended, prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source. In order to comply with this law, DCED will ensure that each activity provides assistance to a person or entity only to the extent that the person or entity has a disaster recovery need that has not been fully met.

Given the often complex nature of this issue, HUD has published a separate Notice explaining the duplication of benefit (DOB) requirements applicable to CDBG disaster recovery; it can be found at **76 FR 71060 (published November 16, 2011)**. DCED will adhere to this **DOB Notice**.

For Housing Assistance Activities, DCED has in place data sharing agreements with FEMA, NFIP and SBA to obtain recipient data in order to avoid duplication of benefits. In the case of

Comparison of Requirements of 24 CFR § 85.36(b)-(i)
to Laws, Rules, and Practices Applicable to
Procurements by the Commonwealth of Pennsylvania

- * Part I of the Pennsylvania Procurement Handbook (“PHB”) relates to general procurement *Policies and Guidelines*.
- * Part II of the PHB relates to the procurement of *Supplies*.
- * Part III of the PHB relates to the procurement of *Services*.
- * Part IV of the PHB relates to the procurement of *Design and Construction Services*.
- * Citations to Purdon’s Pennsylvania Statutes (P.S.) do not have a free and official website to link to. These sections can be accessed through [West’s Unofficial Purdon's Pennsylvania Statutes](#).
- * All links are current as of 04.08.2014.

85.36	Topic	State or local provision	Comments
(b)(1)	General grantee procurement requirements	Pennsylvania Procurement Handbook ("PHB") Title 62 Pa.C.S.A., Procurement. Title 4, Pa Code, Part III, Department of General Services	
(b)(2)	Contract administration system ensuring performance	Pennsylvania Procurement Handbook ("PHB") Title 62 Pa.C.S.A., Procurement. Title 4, Pa Code, Part III, Department of General Services	The procurement process as a whole is a contract administration system which ensures performance.
(b)(3)	Conflicts of interest/gifts	PHB, Part I, Chapter 60, Employee Ethics	

		<p>62 Pa. C.S.A., Part I, Chapter 23, Ethics in Public Contracting (62 PA.C.S.A. §§ 2301-2311).</p> <p>65 Pa. C.S.A., Part II, Chapter 11, Ethics Standards and Financial Disclosure (65 Pa.C.S.A. §§ 1101-1113).</p> <p>71 P.S. §§ 776.1-776.8, State Adverse Interest Act.¹</p> <p>Governor’s Code of Conduct, Executive Order 1980-18.</p> <p>4 Pa. Code, Part I, Chapter 7, Subchapter K, Code of Conduct for Appointed Officials and State Employees (4 Pa. Code §§ 7.151-7.179).</p> <p>Contractor Integrity Provisions for Commonwealth Contracts, Management Directive 215.8.</p> <p>Contractor Responsibility Program, Management Directive 215.9.</p>	
(b)(4)	Avoid purchase of unnecessary or duplicative items	<p>PHB, Part II, Chapter 17 Interagency Transfer or Exchange of Materials</p> <p>PHB, Part II, Chapter 20, Material Procurement through DGS Bureau of Supplies and Surplus Operations</p> <p>PHB, Part I, Chapter 04, Contract Use, Need and Authorization</p>	
(b)(5)	Encourage use of intergovernmental agreements	<p>PHB, Part I, Chapter 53, Interagency Agreements, Memoranda of Understanding and</p>	

¹ There is no available free official link to [Purdon’s Pennsylvania Statutes \(P.S.\)](#).

		<p>Intergovernmental Agreements</p> <p>62 Pa.C.S.A., Part I, Chapter 19, Intergovernmental Relations (62 Pa.C.S.A. §§ 1901-1913).</p>	
(b)(6)	Encourage use of federal excess and surplus property	<p>Federal Surplus Property Program Home Page</p> <p>62 Pa.C.S.A., Part II, Chapter 41, Purchase of Surplus Federal Property (62 Pa. C.S.A. §§ 4101-4102).</p> <p>69 P.S., Chapter 6, Sales of Surplus Federal Property (69 P.S. §§ 571-573).²</p>	
(b)(7)	Encourage use of value engineering clauses in construction contracts	No applicable Commonwealth statute or provision.	The Commonwealth does not encourage value engineering clauses in its construction contracts.
(b)(8)	Award to responsible contractors	<p>PHB, Part I, Chapter 14, Contractor Responsibility</p> <p>Executive Order No. 1990-3, dated June 29, 1990.</p> <p>4 Pa. Code, Part I, Chapter 7, Subchapter JJ, Contractor Responsibility Program (4 Pa. Code §§ 7.501-7.505).</p> <p>62 Pa.C.S.A. §§ 512(g), 513(g), 517(e), 518(e), 519(f).</p>	
(b)(9)	Maintain procurement	PHB, Part I, Chapter 52, Records Retention	

² There is no available free official link to [Purdon's Pennsylvania Statutes \(P.S.\)](#).

	history records	<u>Management Directive 210.5, The Commonwealth of Pennsylvania State Records Management Program.</u>	
(b)(10)	Only use time and materials contracts in certain circumstances	<u>PHB, Part I, Chapter 08, Selecting Type of Contract</u>	
(b)(11)	Grantee not responsible for resolution of disputes and protests	<u>PHB, Part I, Chapter 58, Bid Protests</u> <u>PHB, Part I, Chapter 59, Contract Controversies</u> <u>62 Pa.C.S., Chapter 17, Part I, Legal and Contractual Remedies (62 Pa.C.S. §§ 1701-1751).</u>	
(b)(12)	Protest and dispute resolution procedures	<u>PHB, Part I, Chapter 58, Bid Protests</u> <u>PHB, Part I, Chapter 59, Contract Controversies</u> <u>62 Pa.C.S.A. § 1711.1, Protests of solicitations or awards.</u> <u>62 Pa.C.S.A., Part I, Chapter 17, Legal and Contractual Remedies.</u>	
(c)(1)	Full and open competition	<u>PHB, Part I, Chapter 06, Methods of Awarding Contracts</u>	
(c)(2)	Bar on geographic preferences	<u>PHB, Part I, Chapter 47, Reciprocal Limitations Act</u>	State law prohibits the procurement of products and

		<p>62 Pa.C.S.A. § 107, Reciprocal limitations.</p> <p>PHB, Part I, Chapter 45, Steel Products Procurement Act</p> <p>73 P.S. §§ 1881-1887, Steel Products Procurement Act.³</p> <p>71 P.S. § 650, State heating systems to be fueled by coal.⁴</p> <p>62 Pa.C.S.A. §§ 3731-3736, Motor Vehicle Procurement Act.</p>	<p>services by the Commonwealth from states that discriminate against Pennsylvania products and services.</p> <p>State law requires that all steel products purchased by the Commonwealth must be made from 100% U.S. manufactured steel when used in the completion of “public works” projects.</p> <p>State law requires that facilities owned by the Commonwealth must be fueled by Pennsylvania Coal.</p> <p>State law requires that motor vehicles procured by the Commonwealth must be manufactured in North America.</p> <p>24 CFR 85.36(c)(2), however, prohibits the use of local geographic preferences, except where mandated or encouraged by applicable Federal statutes or when contracting for architectural or engineering services.</p>
(c)(3)	Written selection procedures that identify all requirements and do not unduly restrict competition	PHB, Part 1, Chapter 06, Methods of Awarding Contracts	
(c)(4)	Prequalification	PHB, Part I, Chapter 14, Contractor Responsibility	

³ There is no available free official link to [Purdon’s Pennsylvania Statutes \(P.S.\)](#).

⁴ There is no available free official link to [Purdon’s Pennsylvania Statutes \(P.S.\)](#).

		<p><u>PHB, Part I, Chapter 15, Prequalification</u></p> <p><u>62 Pa.C.S.A. § 532, Prequalification of bidders and offerors.</u></p>	
(d)(1)	Small purchase	<p><u>PHB, Part II, Chapter 01, Small No-Bid Procurements</u></p> <p><u>PHB, Part III, Chapter 01, Small No-Bid Procurements</u></p> <p><u>PHB, Part IV, Chapter 02, No-Bid Procurements of Construction (P-Card)</u></p> <p><u>PHB, Part I, Chapter 07, Thresholds and Delegations</u></p> <p><u>62 Pa.C.S.A. § 514, Small procurements.</u></p> <p><u>4 Pa. Code § 69.9, Small purchases.</u></p>	
(d)(2)	Sealed Bids	<p><u>PHB, Part II, Chapter 03, Delegated Formal Competitive Sealed Bidding</u></p> <p><u>PHB, Part II, Chapter 04, Competitive Sealed Bidding (Exceeding Delegated Thresholds)</u></p> <p><u>PHB, Part III, Chapter 03, Delegated Formal Competitive Sealed Bidding</u></p> <p><u>PHB, Part III, Chapter 04, Competitive Sealed Bidding</u></p> <p><u>62 Pa.C.S.A. § 512, Competitive sealed bidding.</u></p> <p><u>4 Pa. Code § 69.3, Methods of awarding contracts.</u></p>	

		<u>4 Pa. Code § 69.4, Competitive sealed bidding.</u>	
(d)(3)	Competitive proposals	<u>PHB, Part II, Chapter 07, Competitive Sealed Proposals (RFP Process)</u> <u>PHB, Part III, Chapter 07, Competitive Sealed Proposals (RFP Process)</u> <u>PHB, Part IV, Chapter 10, Competitive Sealed Proposals RFP Process</u> <u>62 Pa.C.S.A. § 513, Competitive sealed proposals.</u> <u>4 Pa. Code § 69.6, Competitive sealed proposals.</u>	
(d)(4)(i)(A)	Single source	<u>PHB, Part II, Chapter 05, Sole Source Procurement of Materials</u> <u>PHB, Part III, Chapter 05, Sole Source Procurement of Services</u> <u>PHB, Part IV, Chapter 03, Sole Source Procurements of Construction with an Estimated Cost Exceeding \$5,000</u> <u>62 Pa.C.S.A. § 515, Sole source procurement.</u> <u>4 Pa. Code § 69.7, Sole source procurement.</u>	
(d)(4)(i)(B)	Emergency	<u>PHB, Part II, Chapter 06, Emergency Procurements</u> <u>Part III, Chapter 06, Emergency Procurements of Services</u> <u>Part IV, Chapter 04, Emergency Procurements of Construction</u>	

		<p><u>62 Pa.C.S.A. § 516, Emergency procurement.</u></p> <p><u>4 Pa. Code § 69.8, Emergency procurement.</u></p>	
(d)(4)(i)(C)	Awarding agency authorizes noncompetitive	<p><u>PHB, Part II, Chapter 05, Sole Source Procurement of Materials</u></p> <p><u>PHB, Part III, Chapter 05, Sole Source Procurement of Services</u></p> <p><u>PHB, Part IV, Chapter 03, Sole Source Procurements of Construction with an Estimated Cost Exceeding \$5,000</u></p>	All sole source procurements must be approved by DGA.
(d)(4)(i)(D)	After solicitation, competition determined inadequate	<p><u>62 Pa.C.S.A. § 515, Sole source procurement.</u></p>	
(e)	MWBE	<p><u>PHB, Part I, Chapter 02, Small and Diverse Businesses (definition)</u></p> <p><u>Guidelines for the Small Business Procurement Initiative – Procurement Services, Procurement Goods, Information Technology.</u></p> <p><u>SBPI Program Guidelines – Construction.</u></p> <p><u>SBPI Program Guidelines - Design Services.</u></p> <p><u>Executive Order 2011-09, Small Business Procurement Initiative.</u></p> <p><u>62 Pa.C.S.A. Part I, Chapter 21, Small and Disadvantaged Businesses (62 Pa.C.S.A. §§ 2104-2108).</u></p>	

(f)	Price and cost analysis	Cost of Pricing Data Certification for Sole Source over \$100,000 Consulting Services ITQ "RFQ Summary Scoring for Projects Greater than \$250,000"	
(g)	Awarding agency review	Consulting Services ITQ "Recommendation for Best Value Selection Memo"	
(h)	Bonds	PHB, Part I, Chapter 36, Bid or Proposal Security PHB, Part I, Chapter 37, Contract Performance Security PHB, Part I, Chapter 38, Payment Bonds	

* Terms below are from the [Community Development Block Grant Program Contract Body](#) ("Grant Contract") or Appendix C (Appendix C accompanies all federally funded grants). The Commonwealth is the Grantor and a local government, non-profit entity, or other authorized entity is the grantee. As 24 CFR 85.36(b)-(i) applies to contracts between a grantee or subgrantee and a contractor, some of the terms required by 24 CFR 85.36(i) may not have direct analogs.

(i)(1)	Contract terms, remedies for breach	Grant Contract, Article III (e), Conditions for Repayment of Funds.	
(i)(2)	Contract terms, termination for cause and convenience	Grant Contract, Article XVI, Termination of the Contract.	
(i)(3)	Contract terms, compliance with EO 11246	Appendix C (H)(6).	
(i)(4)	Contract terms, Copeland anti-	Appendix C (N)(3), (4).	

	kickback		
(i)(5)	Contract terms, Davis Bacon	Appendix C (N)(1), (4).	
(i)(6)	Contract terms, compliance with work hours and safety standards act	Appendix C (N)(2), (4).	
(i)(7)	Contract terms, notice of reporting requirements	Grant Contract, Article XII, Progress Reports. Grant Contract, Article XIV, Contract Audit and Closeout Requirements.	
(i)(8)	Contract terms, notice of patent rights requirements	All of our contracts for services contain a provision on patent rights, but there is no statute or provision requiring it. Consulting Services ITQ "Terms and Conditions"	
(i)(9)	Contract terms, copyrights and rights in data	All of our contracts for services contain a provision on copy rights, and rights in data, but there is no statute or provision requiring it. Consulting Services ITQ "Terms and Conditions"	
(i)(10)	Contract terms, access to books and records for audit	Grant Contract, Article XI, Records.	

(i)(11)	Contract terms, retention of records	Grant Contract, Article XI, Records.	
(i)(12)	Contract terms, environmental laws	Grant Contract, Article V, Compliance with Applicable Statutes and Department Regulations, Paragraph (g)	
(i)(13)	Contract terms, energy efficiency	No applicable Commonwealth statute or provision.	