PROCUREMENT GUIDE FOR LOCAL GOVERNMENTS RECEIVING GRANTS (STATE OR FEDERAL) FROM THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES

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INTRODUCTION

DISCLAIMER

This document sets out bidding requirements that local units of government must meet to ensure that the Department of Natural Resources (DNR) can process grant reimbursement requests. The document is **not** a comprehensive review of all bidding law requirements. Consult your attorney with detailed questions about compliance with bidding laws.

DNR personnel are not qualified or authorized to provide legal advice to local units of government concerning bidding laws.

What follows is an explanation of what the DNR will be looking for prior to issuing reimbursements to grantees. Municipalities cannot generalize this guidance to other situations. Bidding laws are complicated, with different requirements for cities, towns, villages, and counties. Because of this complexity, local units of government are urged to work with their attorneys to ensure compliance with all bidding laws.

BACKGROUND

Since moneys collected from taxpayers are typically used to underwrite grant and loan programs, efforts to contain project costs are in the public's interest. There are several cost-containment strategies; the most common is known as "competitive bidding".

In general, state law requires local units of government to competitively bid for "public construction" when the estimated cost exceeds $25,000[1]. If the estimated cost is between $5,000 and $25,000[1], Wisconsin Statutes require that each municipality issue a Class 1 notice concerning the proposed project before a contract is executed. In addition to state law, some municipal ordinances may have competitive bidding requirements.

Recipients of DNR grants and loans must comply with applicable state bidding and contracting requirements; see Part 1 below. In addition, grants or loans funded with Federal money require specific bidding procedures; see Part 2 below. **The DNR strongly recommends grant recipients consult with their attorneys to ensure compliance with all bidding requirements and procedures.**

NOTE: Failure to comply with bidding requirements may result in your reimbursement being withheld.

[1] This requirement varies depending on the specific local unit of government. The DNR strongly suggests that local units of government work with an attorney to ensure that the applicable state laws are complied with and satisfied.

PART 1

REQUIREMENTS WHEN GRANTS ARE FROM STATE SOURCES

DETERMINE BIDDING METHOD

When bidding for ***supplies, services, or construction,*** we suggest the methods listed in the following table to determine the appropriate bidding method. Construction projects cannot be divided into smaller contracts to avoid bidding. While some exceptions exist (see pp. 9-11), it is good business practice to obtain price quotes whenever possible. Grant recipients should consult with their attorneys when determining if the exceptions apply to your situation.

BEFORE SOLICITING BIDS - PREVAILING WAGE DETERMINATIONS

Before making a contract or soliciting bids for public works projects with cost estimates above a given threshold, local governmental units need to obtain a *Prevailing Wage Rate Determination* from the Department of Workforce Development. The determination is for each trade or occupation required for the work. (See s. 66.0903(3)(am), Wis. Stats.)

> **NOTE**: Section 66.0903, Wis. Stats., was amended by *2009 Wisconsin Act 28* and effective January 2, 2010, public works projects with an estimated cost of $25,000 will require a prevailing wage rate determination. This is lower than the 2009 thresholds of $48,000 for a single trade project and $234,000 for a multiple trade project. Also, effective January 2, 2010, wage rate determinations do not apply to a project of public works in which the labor for the project is provided by unpaid volunteers or to minor service or maintenance work, warranty work, or work under a supply and installation contract.

An application for wage rate determination is available on the DWD website (http://dwd.wisconsin.gov/er/prevailing_wage_rate/publication_erd_8731_p.htm) and may be printed or filed electronically. DWD has 30 days from the date of receipt to issue the determination. The prevailing wage "white sheet" should be included with the other bid documents when requesting bids for your project.

RECOMMENDED BIDDING METHODS		
VILLAGES:	Contracts less than $5,000[2]	Although not mandated by law, it is highly recommended that the grant applicant obtain quotes from several sources (preferably three vendors) to obtain the best price. Grant applicants should telephone vendors and ask them to submit a written estimate/quote for goods or services. Additionally, grant applicants should maintain a file with the names of vendors contacted, the written quotes obtained, and a written explanation of the vendor selected (if not low bidder).
	Contracts greater than $5,000 but less than $25,000	If the estimated cost of any public construction exceeds $5,000, but is not greater than $25,000, the village board shall give a Class 1 notice, under ch. 985, of the proposed construction before the contract for the construction is executed. (See Wis. Stat. § 62.15.)
	Contracts greater than $25,000	All contracts for public construction, in any such village, exceeding $25,000, shall be let by the village board to the lowest responsible bidder in accordance with s. 66.0901 insofar as said section may be applicable. (See Wis. Stat. §62.15.)

[2] Although not mandated by statute or administrative regulation, it is strongly recommended that this action be taken by grant applicants to remain consistent with Wis. Adm. Code ADM 8.01, Wis. Stat. § 16.75(1)(c), and Wis. Stat. § 16.75(2m)(c).

RECOMMENDED BIDDING METHODS		
CITIES:	Contracts less than $5,000[2]	Although not mandated by law, it is highly recommended that the grant applicant obtain quotes from several sources (preferably three vendors) to obtain the best price. Grant applicants should telephone vendors and ask them to submit a written estimate/quote for goods or services. Additionally, grant applicants should maintain a file with the names of vendors contacted, the written quotes obtained, and a written explanation of the vendor selected (if not low bidder).
	Contracts greater than $5,000 but less than $25,000[3]	If the estimated cost of any public construction exceeds $5,000 but is not greater than $25,000, the board of public works shall give a Class 1 notice, under ch. 985, of the proposed construction before the contract for the construction is executed. (See Wis. Stat. § 62.15(1).)
	Contracts greater than $25,000[3]	All public construction, the estimated cost of which exceeds $25,000, shall be let by contract to the lowest responsible bidder; all other public construction shall be let as the council may direct. (See Wis. Stat. § 62.15(1).)

[3] The council may also, by a vote of three–fourths of all the members–elect, provide by ordinance that any class of public construction or any part thereof may be done directly by the city without submitting the same for bids.

RECOMMENDED BIDDING METHODS		
TOWNS:	Contracts less than $5,000[2]	Although not mandated by law, it is highly recommended that the grant applicant obtain quotes from several sources (preferably three vendors) to obtain the best price. Grant applicants should telephone vendors and ask them to submit a written estimate/quote for goods or services. Additionally, grant applicants should maintain a file with the names of vendors contacted, the written quotes obtained, and a written explanation of the vendor selected (if not low bidder).
	Contracts greater than $5,000 but less than $25,000	No town may enter into a public contract with an estimated cost of more than $5,000 but not more than $25,000 unless the town board, or a town official or employee designated by the town board, gives a Class 1 notice under ch. 985 before execution of that public contract. (See Wis. Stat. § 60.47(2)(a).)
	Contracts greater than $25,000	No town may enter into a public contract with a value of more than $25,000 unless the town board, or a town official or employee designated by the town board, advertises for proposals to perform the terms of the public contract by publishing a Class 2 notice under ch. 985. The town board may provide for additional means of advertising for bids. (See Wis. Stat. § 60.47(2)(b).) The town board shall let a public contract for which advertising for proposals is required under the above section to the lowest responsible bidder.[4] (see Wis. Stat. § 60.47(3).)

[4] "Responsible bidder" means a person who, in the judgment of the town board, is financially responsible and has the capacity and competence to faithfully and responsibly comply with the terms of the public contract.

RECOMMENDED BIDDING METHODS		
COUNTIES:	Contracts less than $5,000[2]	Although not mandated by law, it is recommended that the grant applicant obtain quotes from several sources (preferably three vendors) to obtain the best price. Grant applicants should telephone vendors and ask them to submit a written estimate/quote for goods or services. Additionally, grant applicants should maintain a file with the names of vendors contacted, the written quotes obtained, and a written explanation of the vendor selected (if not low bidder).
	Contracts greater than $5,000 but less than $25,000[5]	If the estimated cost of any public work is between $5,000 and $25,000, the board shall give a Class 1 notice under ch. 985 before it contracts for the work or shall contract with a person qualified as a bidder under s. 66.0901. (See Wis. Stat. § 59.52(29)(a).)
	Contracts greater than $25,000[6]	All public work, including any contract for the construction, repair, remodeling or improvement of any public work, building, or furnishing of supplies or material of any kind where the estimated cost of such work will exceed $25,000 shall be let by contract to the lowest responsible bidder. (See Wis. Stat. § 59.52(29)(a).)
MUNICIPAL DISTRICTS	Contracts less than $5,000[2]	Although not mandated by law, it is recommended that the grant applicant obtain quotes from several sources (preferably three vendors) to obtain the best price. Grant applicants should telephone vendors and ask them to submit a written estimate/quote for goods or services. Additionally, grant applicants should maintain a file with the names of vendors contacted, the written quotes obtained, and a written explanation of the vendor selected (if not low bidder).
	Contracts greater than $5,000 but less than $25,000[7]	If the estimated cost of any public construction exceeds $5,000 but is not greater than $25,000, the municipal district shall give a Class 1 notice, under ch. 985, of the proposed construction before the contract for the construction is executed.
	Contracts greater than $25,000[7]	All public construction, the estimated cost of which exceeds $25,000, shall be let by contract to the lowest responsible bidder.

[5] Any public work, the estimated cost of which does not exceed $25,000, shall be let as the board may direct.
[6] A contract, the estimated cost of which exceeds $25,000, shall be let and entered into under s. 66.0901, except that the board may by a three–fourths vote of all the members entitled to a seat provide that any class of public work or any part thereof may be done directly by the county without submitting the same for bids.
[7] Although not mandated by statute or administrative regulation, it is strongly recommended that this action be taken by grant applicants to remain consistent with Wis. Stat. §§ 61.55, 62.15(1), 60.47(2)(a & b), and 59.52(29)(a).

- Quotes: Although not mandated by law, it is **strongly recommended** that grant applicants perform the following procedures to ensure fiscal responsibility.
    1. Obtain and document quotes from several sources (preferably three vendors) to obtain the best price.
        a. Telephone vendors and ask them to submit a written estimate/quote for goods or services.
        b. Maintain a file with the names of vendors contacted, the written quotes obtained, and a written explanation of the vendor selected (if not low bidder).
    2. Purchases over $5,000 and less than $25,000 require the publication of a Class 1 notice. See section below about publishing notices.

- Bids: Obtain bids through the publication of a Class 2 notice.

WRITE AND PUBLISH NOTICES, IF REQUIRED

Solicitations should clearly set forth all requirements that the bidder should fulfill in order for the bid to be evaluated by you. As indicated in the table above, the following notices are required:

- Class 1 Notice — Publish a request for price quotes ***one*** time in the newspaper designated by the municipality's governing body as the "official newspaper of public record". (See **Attachment A** for an example of a Class 1 written notice.)

- Class 2 Notice — Publish a request for bids ***two*** times (once per week for two consecutive weeks, the last of which should be at least one week before the bids are to be opened) in the newspaper designated by the municipality's governing body as the "official newspaper of public record". (See **Attachment B** for an example of a Class 2 written notice.)

- Proof of Printing — To document compliance with the procurement guidelines, obtain proof of printing in the form of an *Affidavit of Publication* from the publisher and store this with the grant records.

SELECT VENDOR

- **The recipient should be alert to conflicts of interest.** Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in the firm selected for a contract. No employee, officer, or agent should participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved.

- In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft bid specifications, requirements, statements of work, and invitations for bids and/or requests for proposals should be excluded from competing for such procurements.

- For quotes, awards should be made to the vendor whose quote is responsive to the solicitation and is most advantageous to the recipient, considering price, quality and other factors.

- For bids, the award should be made to the lowest responsible bidder.

BIDDING EXCEPTIONS

1. PURCHASES FROM OTHER UNITS OF GOVERNMENT. Any local governmental unit may make purchases from another unit of government, including the state or federal government, without bidding. (See s. 66.0131(2), Wis. Stats.)

2. MUNICIPALITIES MAY PERFORM THE WORK. A municipality can avoid the bidding process by performing the work itself. This exception allows municipal personnel to do the work, but it does not allow the municipality to serve as a general contractor and negotiate with subcontractors to do the work. (See *Elliott v. Morgan*, 214 Wis.2d 253, 571 N.W.2d 866 (Ct. App. 1997).)

3. CITIES AND VILLAGES ONLY BID FOR "PUBLIC CONSTRUCTION". Public construction consists of activities and public improvements which require the combination of materials, supplies, and labor. It is rare that mere maintenance and other public works which do not involve the actual combining of materials and labor with a definable end result would constitute public construction. (See Natkins, Smith & Van Swearingen, *Public Constructions in Wisconsin*, p. 50 (1985).)

4. EQUIPMENT; IN GENERAL. "Public contract" means any contract for the construction, execution, repair, remodeling, improvement of a public work, building or for the furnishing of supplies, material of any kind, proposals for which are required to be advertised by law. (See Sec. 66.0901(1)(c), Wis. Stats.) The definition of "public contract" has been previously interpreted by the Wisconsin Attorney General not to include equipment. Attorney General opinions have stated that farm machinery, a police car, and a heavy movable engine constitute equipment, are not supplies or material, and therefore are not subject to competitive bidding requirements. However, according to various court decisions, certain types of equipment that require contracted labor to install may be permanent fixtures, thus constituting improvement of a public work and requiring purchase by competitive bid. (See *State ex. rel. Gisholt Mach. Co. v. Norsman*, 168 Wis 442, 169 N.W. 429 (1919); *Wisconsin Dept of Revenue v. A. O. Smith Harvestore Products, Inc.*, 72 Wis.2d 60, 240 N.W.2d 357 (1976).)

5. EQUIPMENT; PLAYGROUND. Playground equipment may not fall under the equipment exception to the bidding statutes. Building a playground typically involves the combination of materials, supplies, and labor and may, therefore, meet the definition of "public construction". Most playground equipment is considered a fixture: the materials are placed on and secured into the ground, on real estate which has been devoted by a municipality to a playground, with the intention of making playground equipment a permanent fixture. Playground equipment, therefore, must be publicly bid if the estimated costs of the public construction exceeds the specified statutory amount. However, playground equipment for which the municipality performs the installation work itself, or for which the municipality contracts with another municipality for installation, is exempt from the bidding requirement.

6. DONATIONS. If part of the labor, materials, and/or cost of a public work project is donated, the project must still comply with bidding requirements, based on total project costs. However, the project does not have to comply with these requirements if all of the project's cost, labor, and materials are donated or the supplies and materials are donated and the municipality does the installation work itself or contracts with another municipality for the installation work.

7. CONTRACTS FOR SERVICES; IN GENERAL. Contracts which are for the performance of services requiring scientific knowledge and professional skill are not considered the performance of "public construction" or public work and so need not be competitively bid. The general test to be applied in determining whether the work is considered "services" and is exempt from bidding requirements in whether it is impossible or impractical to draw specifications for the tasks identified in the contract. (*Waste Management, Inc. v. Wisconsin Solid Waste Recycling Authority*, 84 Wis.2d 462, 267 N.W.2d 659 (1978); *Aqua-Tech, Inc. v. Como Lake Protection and Rehabilitation Dist.*, 71 Wis.2d 541, 239 N.W.2d 25 (1976).)

   Examples of "services" exempt from competitive bidding include architectural services (76 AOG 182) and professional engineering services. (*Aqua-Tech, Inc. v. Como Lake Protection and Rehabilitation Dist.*, 71 Wis.2d 541, 239 N.W.2d 25 (1976); *Flottum v. City of Cumberland*, 234 Wis. 654, 291 N.W. 777 (1940).)

8. CONTRACTS FOR SERVICES; FEDERALLY FUNDED PROJECTS AND CONTRACTS FOR SERVICES. If a project will be funded with federal funds, services are not automatically exempt from competitive bidding requirements. Depending on the dollar amount, compliance with federal bidding procedures may be required under 43 CFR 12.76.

   - If the contract is estimated to cost less than $100,000, the Federal "small purchase" procedures (See 43 CFR 12.76(d)(1)) should be used for contracts for services, supplies, or other property. Under this procedure, a municipality must simply obtain an adequate number of quotes from a qualified number of sources. Public noticing is not required.

- If the project is estimated to cost $100,000 or more, the "sealed bid" process (See 43 CFR 12.76(d)(2)) or the "competitive proposals" (See 43 CFR 12.76(d)(3)) procedure should be used for contracts for services.

  - Under the "sealed bid" process, bids are publicly solicited and the contract is awarded to the lowest responsible bidder. The sealed bid process is the preferred federal method for procuring construction, according to 43 CFR 12.76(d)(2).

  - Under the "competitive proposals" procedure, a municipality must public notice the project (for services), and solicit an adequate number of bids. The bidders' qualifications are evaluated and the most qualified competitor is selected, subject to negotiations of a fair and reasonable prices. The "competitive proposals" procedure, where price is not used as a selection factor, may only be used in the procurement of architectural or engineering services.

Attachment A - Example of a Class 1 Public Notice

Public Notice

[Show Project Name here]
[Show Village/City/Town/County/District Name here]

The [Village/City/Town/County/District Name] will be performing the following work:

_____

_____

_____

The [Village/City/Town/County/District Name] will receive quotes for this work at the office of [Name of Office] located at [Address] until [Time], [Date]. Quotes will be reviewed and contracts will be awarded to the vendors whose quotes are most responsive to the solicitation and are most advantageous to the [Village/City/Town/County/District Name], considering price, quality and other factors.

Owner reserves the right to reject any and all quotes.

Chief Elected Official Signature: _____

Print Chief Elected Official Name: _____

Date: _____

Attachment B — Example of a Class 2 Advertisement for Bids

Advertisement for Bids

[Show Project Name here]
[Show Village/City/Town/County/District Name here]

The [Village/City/Town/County/District Name] will receive sealed bids for [Project Name] at the office of [Name of Office] located at [Address] until [Time], [Date]. All bids will be publicly opened and read aloud at that time.

The work for which bids are asked includes the following:

_____

_____

_____

Bidding documents may be examined at [Name of Office] located at [Address]. Copies may be obtained from [Name of Office] upon deposit of $ [Deposit Amount] for each set. Any unsuccessful bidder, upon returning such within 10 days after bid opening and in good condition will be refunded his/her deposit.

Any proposals shall be submitted in an opaque envelope, on the forms provided, and marked with the name and address of the bidder and accompanied by the bid security. If the proposal is sent through the mail, or other delivery system, the sealed envelope shall be enclosed in a separate envelope marked with the notation "BID ENCLOSED" and addressed to [Name of Office and Address].

[For contracts involving construction, insert the following paragraph]

No proposal shall be accepted unless accompanied by a certified check or bid bond equal to at least 5% of the amount bid, payable to Owner as a guarantee that, if the bid is accepted, the bidder will execute and file the proper contract and bond within 15 days after the award of the contract. The certified check or bid bond will be returned to the bidder as soon as the contract is signed, and if after 15 days the bidder shall fail to do so, the certified check or bid bond shall be forfeited to the Owner as liquidated damages.

Attachment B — Example of a Class 2 Advertisement for Bids (continued)

[For contracts involving construction projects over $2000 paid partially or in full with federal funds, insert the following paragraph]

Minimum salaries and fringes to be paid on the project shall be in accordance with the prevailing wage rate scale established by the Federal Department of Labor (DOL). Attention is called to the fact that not less than the minimum salaries and fringes set forth in the Contract Documents must be paid on this project, and that the Contractor must ensure that employees and applications for employment are not discriminated against because of their race, color, religion, sex, national origin, or other protected class. Federal Labor standards program laws, including, but not limited to the Davis Bacon Act, the Copeland Anti Kickback Act, and the Contract Work Hours and Safety Standards Act will apply to all projects.

No bidder may withdraw his/her bid within 30 days after the actual day of the opening thereof.

Owner reserves the right to waive any informalities or to reject all bids.

Chief Elected Official Signature: _____

Print Chief Elected Official Name: _____

Date: _____

PART 2

REQUIREMENTS WHEN FUNDS ARE FROM FEDERAL SOURCES

Grantees are required to comply with Federal guidelines when receiving grants funded with federal money. The federal guidelines are detailed in Office of Management and Budget (OMB) *Circulars* and the *Code of Federal Regulations*. To assist you, we have prepared the following explanations of some of the more complex requirements.

CASH MANAGEMENT

The DEPARTMENT must limit cash advances to you to the minimum amounts needed and the advances must be timed to be in accordance with your actual, immediate cash requirements in carrying out the project. The timing and amount of cash advances must be as close as is administratively feasible to the actual disbursements for direct project costs and the proportionate share of any allowable indirect costs.

You should keep advances in an interest-bearing account.

You are required to return interest earned on advances to DEPARTMENT at least quarterly. You may keep up to $100 per year for administrative purposes ($250 if the grantee is a non-profit entity). Rather than sending the DEPARTMENT a check each quarter, you may deduct an amount equal to the interest from a subsequent reimbursement request.

LABOR STANDARDS

⇒ THE DAVIS-BACON ACT. This Act requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the U.S. Department of Labor (USDOL) and are issued in the form of Federal wage decisions for each classification of work to be performed in the area.

Violation of the Davis-Bacon Act make the contractor liable for unpaid wages and may result in suspension of payments, contract termination, and suspension or debarment of the contractor from participation in federally funded projects.

The US Department of Labor's website, www.dol.gov/dol/esa/public/programs/dbralindex.html contains additional information.

Contracts and subcontracts must include the required prevailing wage rate clauses (see the bidding guidance example of an Advertisement for Bids).

⇒ THE COPELAND "ANTI-KICKBACK" ACT. This Act requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and those required by court processes. The Act also requires contractors to submit weekly payroll records and Statements of Compliance to the contracting agency. Regulations, Part 3, requires contractors and subcontractors

on construction projects covered by the Davis-Bacon Act to submit each week a "statement of compliance" certifying compliance with the Davis-Bacon Act requirements. This "statement of compliance" is usually referred to as the certified payroll. This Act applies to all contracts covered by the Davis-Bacon Act.

Violation of the Copeland Act is a felony and may result in termination of the contract or criminal prosecution by the U.S. Government, punishable by a fine of $5,000, 5 years in prison, or both.

⇒ THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (CWHSSA). This Act requires that workers receive "overtime" pay at a rate of one and one-half times their regular hourly pay after they have worked 40 hours in one week on the federally funded project. The CWHSSA does not apply to contracts of $100,000 or less, however; the Fair Labor Standards Act will apply and overtime provisions are applicable to all contracts covered by the Davis-Bacon Act.

Violation of the CWHSSA makes the contractor liable for unpaid wages, liquidated damages of $10 per employee per day of violation, and, in cases of intentional violation, a fine and imprisonment or both. Violations may also result in termination of the contract.

Applicability

Labor standards apply to all contracts, financed in whole or in part from federal funds or in accordance with guarantees of a federal agency, for construction, alteration, or repair of a public building or public work, except as noted below.

Exceptions

1. Public works constructed by your own employees, commonly called "force account" work. A letter stating that the work was performed with your own employees should be submitted with your grant reimbursement request. NOTE: There is no such thing as **private** "force account" work.
2. Residential rehabilitation in structures with less than eight (8) units.
3. Contracts that are part of a project of less than $2,000 value.
4. Construction activities assisted solely by means of loans guaranteed with interest-bearing collateral accounts, where 1) the interest rate is the usual and customary rate on demand accounts; 2) the account is subject only to the usual and customary terms and conditions for collateral accounts; and 3) there is no "substantial likelihood" that the guarantee will be used.
5. Economic development projects where federal funds are used only for nonconstruction activities such as acquisition; machinery and equipment purchase (not including installation); stock (equity) purchase; and operating capital loans where such funds cannot be used for construction.

MATCHING

All contributions, including cash and third party in-kind, shall be accepted as part of the recipient's cost sharing or matching when these contributions meet all of the following criteria.

- Are verifiable from the recipient's records.
- Are not included as contributions for any other federally-assisted project or program.
- Are necessary and reasonable for proper and efficient accomplishment of project or program objectives.
- Are allowable under the applicable cost principles.
- Are not paid by the Federal Government under another award.
- Are provided for in the approved budget when required by the Federal awarding agency.
- Conform to other provisions of *OMB Circular A-102* and *OMB Circular A-110* as applicable.

Matching may be in the form of allowable costs incurred or in-kind contributions, including third-part in-kind contributions. The following requirements pertain to the recipient's supporting records for in-kind contributions from third parties.

- Volunteer services shall be documented and, to the extent feasible, supported by the same methods used by the recipient for its own employees.
- The basis for determining the valuation for personal service, material, equipment, buildings and land shall be documented.

PROCUREMENT

See Part 1, "Requirements When Grants Are from State Sources" at the beginning of this document.

RECORDS RETENTION

Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of ***three years*** from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Federal awarding agency. The only exceptions are the following.

1. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

2. Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

3. When records are transferred to or maintained by the Federal awarding agency, the 3-year retention requirement is not applicable to the recipient.

4. Indirect cost rate proposals, cost allocations plans, etc.

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