

Procurement Handbook for Developers and Subrecipients

*City of Cincinnati Department of Community and Economic
Development*

The Following Procurement Requirements May Apply to this Project:

- Meet and Confer
- Selection of Subcontractors
- Debarred Contractor Search
- Small Business Enterprise (SBE) / Minority & Women Business Enterprise (MBE/WBE)
- Section 3
- Prevailing Wage (Local, State and Federal)
- Wage Enforcement
- Living Wage
- Equal Employment Opportunity (EEO)
- Preconstruction Meeting

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Meet and Confer

Summary/Purpose of Requirements

The purpose of the Meet and Confer is to enhance economic opportunity by ensuring that trade unions and minority, female and locally owned contractors and suppliers have the opportunity to bid on City construction projects.

The Meet and Confer expands opportunities in City-assisted construction projects through a Pre-Bid meeting that explains the use and extent of City funds in projects involving construction activity. Additionally, the Meet and Confer provides unsuccessful bidders a meaningful review and guidelines that better prepare the bidders for future opportunities.

Meet and Confer meetings are held at 9:00 AM on the 2nd and 4th Tuesdays of each month at Community and Economic Development at 805 Central Avenue, Seventh Floor, Griesel Room.

Developer Responsibilities

1. Work with DCED staff to schedule Meet and Confer to align with the start of the bid process. This may occur during the application or underwriting stage of the project, prior to contract execution. If project plans and specs are not finalized at the time of Meet and Confer, Developers may submit a project summary which includes applicable bid dates, project description including trades to be bid, and bid contact information.
2. You must provide several weeks notice to reserve a date on the calendar, so please plan ahead.
3. Schedule dates for walk through, bid opening, and bid closing.
4. Attend Meet and Confer and present project to potential bidders.

Applicability

Meet and Confer is applicable to all construction/development agreements, except those that are bid directly by the City and meeting Federal, State, and/or City legislation establishing a public Open Bid process.

Funding Type	Does M&C Apply?	Notes
Community Development Block Grant (CDBG)	YES	Applies to housing and infrastructure only
HOME Investment Partnerships Program (HOME)	YES	TBRA is excluded
CDBG Section 108	YES	
Neighborhood Stabilization Program (NSP)	YES	
City Capital, TIF, and equivalent	YES	
Community Reinvestment Area (CRA) Tax Abatement	YES	Commercial only

Regulatory Reference

- Local: City Council Resolution No. 93-1989 and Cincinnati City Council Ordinance No. 130-2002

Required Forms

- Meet and Confer Intake Form – contact Department of Community & Economic Development for latest form

Selection of Subcontractors

Summary/Purpose of Requirements

The purpose of the following set of requirements is to ensure that projects receiving City funds select subcontractors using a process that is fair, open, and inclusive.

Grantee/ Subgrantee/ Developer Responsibilities

1. Adopt a procurement policy that is in compliance with applicable City and federal procurement regulations. Include a code of conduct that governs employees, officers or agents engaged in the award and administration of contracts.
2. Take affirmative steps to assure that small, minority-owned, and women-owned business are used when possible; take affirmative steps to meet or exceed SBE and Section 3 goals when applicable.
3. Adopt and implement bidding procedures that include:
 - a. Advertisement to bid (Additional requirements may apply. If project is \$250,000 or more and City Capital funds are 25% or more of the total project cost, check with City Program Manager for additional requirements)
 - b. Notification to bidders of bid award
 - c. Notification to original bidders of rebids
 - d. At least one week between bid advertisement and bid close
 - e. Receipt of at least three bids for each project (if this does not occur, document good faith efforts and reasons why three bids were not attained)
 - f. Bids read aloud in public forum at time and place stated (Or, if more time is needed, all participating contractors must be notified in a timely matter; notification must be documented.)
 - g. Non-acceptance of bids submitted after bid close date
 - h. Contracts awarded to lowest and best bidder ("Best" may include references, financial capacity, past performance, etc.)
 - i. Policy describing basis for exclusion when contract is not awarded to lowest and best bidder
 - j. Bid tab sheets submitted to the City.
4. Ensure that the bid packet (when applicable):
 - a. States compliance with federal, state, and local regulations
 - b. States expected bid schedule
 - c. Contains alternates to minimize need for rebids
 - d. Identifies factors that will be used to evaluate bidders (past performance, financial resources, etc.).
5. For Construction Contracts only:
 - a. Scope of work, specs, and plans submitted to City
 - b. Attend Meet and Confer prior to bid process
 - c. Hold a walk-through/pre-bid meeting
 - d. Contracts address contractor conformance with terms, conditions, and specifications of contract
 - e. Contracts outline conditions of removal from project
 - f. Submit subcontractor approval forms prior to work beginning

- g. When a general contractor is selected prior to the developer’s application for City funding, the rationale for this selection must be documented in the project file. Subcontractors and trades must be procured through the open bid process described in #4 above.

Applicability

Funding Type	Subcontractor Selection Applicable?	Notes
Community Development Block Grant (CDBG)	YES	
HOME Investment Partnerships Program (HOME)	YES	
CDBG Section 108	YES	
Neighborhood Stabilization Program (NSP)	YES	
City Capital, TIF, and equivalent	YES	
Community Reinvestment Area (CRA) Tax Abatement	Meet and Confer Only	Commercial CRA Only

Regulatory Reference

- Federal Requirements for Local Governments and Subrecipients of Local Governments:
 - OMB Circular A-102 (Uniform Administrative Requirements)
 - 24 CFR Part 85 (UAR)
 - OMB Circular A-87 (Cost Principals)
 - 2 CFR Part 225 (Cost Principals)
 - OMB Circular A-133 (Audits)
- Federal Requirements for Non-Profit Subrecipients of Local Governments:
 - OMB Circular A-110 (UAR)
 - 24 CFR Part 84 (UAR)
 - OMB Circular A-122 (Cost Principals)
 - 2 CFR Part 230 (Cost Principals)
 - OMB Circular A-133 (Audits)

Items to be Submitted to the City

1. Procurement policy
2. Advertisement to bid
3. Scope of work, specs, and plans
4. Bid tab sheets
5. Additional items upon request

Additional Resources

- CDBG Playing by the Rules, Chapter 3.0: Procurement and Contracting (available by request or accessible by Google Search).

Debarred Contractor Search

Summary/Purpose of Requirements

The purpose of the Debarred Contractor Search is to ensure that the Department of Community and Economic Development does not award contracts or spend City or Federal funds on Developers, Contractors, or Subcontractors that have been debarred, suspended, or otherwise ineligible for participation in federal assistance programs subject to 2 CFR part 2424 or as outlined in CMC 321-153 and the City’s Vendor Debarment Policy (<https://www.cincinnati-oh.gov/purchasing/purchasing-resources/vendor-debarment/>)

Developer Responsibilities

1. On all projects, Developer must provide DCED with all contractor and subcontractor company names. This can be done through the submission of the Form 2004s.

DCED Staff Responsibilities

1. Staff must perform debarred contractor search on all tiers of contractors/subcontractors via both the federal and city debarment policies
2. Staff must perform initial debarred contractor search (contract entity name) prior to contract execution. Contractor and subcontractor searches must be performed as Form 2004s are received.
 3. A PDF copy of search results should be kept in electronic contract file. Debarred contractor search is performed through the System for Award Management (SAM) website. The System for Award Management (SAM) is the Official U.S. Government system that contains information on debarred and suspended contractors.
 4. In addition, staff should check the City’s debarred vendor list, available at <https://www.cincinnati-oh.gov/purchasing/purchasing-resources/vendor-debarment/>.

Applicability

The federal Debarred Contractor Search (SAM) is applicable to the below:

Funding Type	Does Apply?	Notes
Community Development Block Grant (CDBG)	YES	
HOME Investment Partnerships Program (HOME)	YES	
CDBG Section 108	YES	
Neighborhood Stabilization Program (NSP)	YES	
City Capital, TIF, and equivalent	NO	
Community Reinvestment Area (CRA) Tax Abatement	NO	

The City’s Vendor Debarment Policy is applicable to all projects, regardless of funding source.

Regulatory Reference

- Federal: 24 CFF 85.35 (Subawards to Debarred and Suspended Parties)
- CMC 321-153 – Vendor Debarment

Required Forms

1. Subcontractor Approval Request Form (Form 2004)
2. System for Award Management website: <https://www.sam.gov/portal/public/SAM/>. Go to “Search Records” and put in Entity Name. Print out search results for project file.

SBE-MBE-WBE: Small, Minority, and Women-Owned Businesses

Summary/Purpose of Requirements

The City's aspirational annual goal for SBE participation is 30% of the total dollars spent for construction, 15% for supplies/services, and 15% for professional services. The City also has a Minority & Women Business Enterprise Program which applies to contracts where a historic contracting disparity based on race and gender has been established. Your contract will either have an SBE goal or an MBE/WBE goal.

The City's Department of Economic Inclusion is responsible for certifying SBEs and administering the program. An active directory of City-certified SBEs, MBEs, and WBEs is available on the Department of Economic Inclusion's website: <https://cincinnati.diversitycompliance.com/FrontEnd/SearchCertifiedDirectory.asp>. Please note that if a firm is not certified by the City of Cincinnati as an SBE/MBE/WBE they cannot be counted towards one of these subcontracting goals.

SBE requirements pass from the City department to the developer/prime contractor, and each subsequent tier of subcontractors.

Grantee/ Subgrantee/ Developer Responsibilities

1. Input all subcontractor information and payments into the City's Vendor Compliance and Certification System (VCCS) website to document SBE/MBE/WBE utilization. Payments for the previous month should be entered by close of business on the 15th of the current month.
2. Schedule training on the VCCS database with the Department of Economic Inclusion if unfamiliar with the system.
3. Document good faith efforts to achieve maximum SBE/MBE/WBE utilization if you will not meet the established goal. Good faith efforts include:
 - a. Soliciting SBEs/MBEs/WBEs through all reasonable and available means by:
 - i. Hosting a pre-bid meeting for each bid package
 - ii. Including qualified SBEs/MBEs/WBEs on solicitation lists for each bid package
 - iii. Advertising both in local minority publications and in other local newspapers of general circulation, invitations to SBEs/MBEs/WBEs to bid on construction contracts.
 - b. Providing SBEs/MBEs/WBEs with the plans & specifications in a timely manner
 - c. When economically feasible, dividing the total requirements into small tasks or quantities so as to permit maximum SBE/MBE/WBE participation.
 - d. Assisting SBEs/MBEs/WBEs with obtaining bonding/lines of credit/insurance if required for participation.
 - e. Requiring subcontractors to demonstrate these affirmative steps in their tier subcontracts.

Applicability

Funding Type	Does SBE Apply?	Notes
Community Development Block Grant (CDBG)	YES	
HOME Investment Partnerships Program (HOME)	YES	
CDBG Section 108	YES	
Neighborhood Stabilization Program (NSP)	YES	

City Capital, TIF, and equivalent	YES	
Community Reinvestment Area (CRA) Tax Abatement	YES	Only item #3 in above list is applicable

Regulatory Reference

- Local: Cincinnati Municipal Code Chapter 323 & 324, Small Business Enterprise Program Regulations, Minority & Women Business Enterprise Regulations

Required Forms

1. [MBE/WBE Inclusion Packet](#)
2. [SBE Inclusion Packet](#)

Section 3

Summary/Purpose of Requirements

Section 3 of the Housing and Urban Development Act of 1968 recognizes that HUD funding typically results in projects/activities that generate new employment, training, and contracting opportunities. When these opportunities are created, Section 3 requires that preference is provided to low- and very low-income residents (individuals at or below 80% of the area median income) of the local community (regardless of race and gender), and the businesses that substantially employ them, for new employment, training, and contracting opportunities resulting from the HUD-funded project.

Section 3 Goals

For all contracts over \$100,000 (this includes developer, contractor, and subcontractor contracts):

- Thirty percent (30%) of the aggregate number of new hires shall be Section 3 Residents (a resident at or below 80% AMI);
- Ten percent (10%) of all covered construction contracts shall be awarded to Section 3 Business Concerns;
- Three percent (3%) of all covered non-construction contracts shall be awarded to Section 3 Business Concerns.

Efforts to meet these goals must be made to the greatest extent feasible and all efforts taken must be documented accordingly.

Definitions

Section 3 Business: Businesses can be certified as a Section 3 Business Concern if they meet one of the following criteria: 51% or more of the business is owned by a Section 3 Resident; 30% of the business’s permanent, full-time employees are certified; or, the business provides evidence that it will subcontract 25% of the dollars awarded to certified Section 3 Business Concerns.

Section 3 Resident: An individual who resides in the metropolitan area and is at or below 80% of the Area Median Income (AMI) set by HUD or is a public housing resident can be certified as a Section 3 Resident.

Applicability

Funding Type	Does Section 3 Apply?	Notes
Community Development Block Grant (CDBG)	YES	Construction Contracts over \$100,000 only
HOME Investment Partnerships Program (HOME)	YES	Construction Contracts over \$100,000 only
CDBG Section 108	YES	Construction Contracts over \$100,000 only
Neighborhood Stabilization Program (NSP)	YES	Construction Contracts over \$100,000 only
City Capital, TIF, and equivalent	NO	
Community Reinvestment Area (CRA) Tax Abatement	NO	

Regulatory Reference

24 CFR Part 135

Grantee/ Subgrantee/ Developer Responsibilities and Required Forms

City of Cincinnati Section 3 Developer Document Submittal Guide		
Entity	Items to Submit	Due Date
Developer	<ul style="list-style-type: none"> • From <i>Section 3 Requirements Packet</i> <ul style="list-style-type: none"> ○ City of Cincinnati Section 3 Understanding ○ Current Workforce Profile and Hiring Plan ○ Training Plan ○ Efforts to Comply with Section 3 Hiring and Contracting Goals Narrative ○ Section 3 Business Utilization Plan ○ Section 3 Business Concern Affidavit* – for entities needing certification ○ Section 3 Notice – Housing and Community Development Projects ○ Section 3 Resident Affidavit* – for residents needing certification • List of bidders for the project (list of bidders for trades if Developer acting as own General Contractor) • Construction Schedule • Photo of Notice of Section 3 signage posted the site 	No later than City contract signature date
	<ul style="list-style-type: none"> • Payroll Register – if there are no Section 3 Resident employees • Payroll Report – if there are Section 3 Residents employed 	At contract signature then monthly thereafter
All contractors and subcontractors	<ul style="list-style-type: none"> • Subcontractor Approval Form 	Before the firm begins work
Any contractor or subcontractor with a contract in the amount of \$100,000 or more	<ul style="list-style-type: none"> • From <i>Section 3 Requirements Packet</i> <ul style="list-style-type: none"> ○ City of Cincinnati Section 3 Understanding ○ Current Workforce Profile and Hiring Plan ○ Training Plan ○ Efforts to Comply with Section 3 Hiring and Contracting Goals Narrative ○ Section 3 Business Utilization Plan ○ Section 3 Business Concern Affidavit* – for entities needing certification ○ Section 3 Notice – Housing and Community Development Projects ○ Section 3 Resident Affidavit* – for residents needing certification 	Before the firm begins work
	<ul style="list-style-type: none"> • Payroll Register – if there are no Section 3 Resident employees • Payroll Report – if there are Section 3 Residents employed 	At contract signature then monthly thereafter
All	<ul style="list-style-type: none"> • Copy of outreach letters sent • Distribution list for outreach letters • From Section 3 Packet: Applicant and Hiring Flow Data Record (or equivalent) 	Upon request – please keep these documents (or equivalent) in your records

Additional Resources

- City of Cincinnati: www.cincinnati-oh.gov/section3
- U.S. Department of Housing and Urban Development: www.hud.gov/offices/fheo/section3/section3.cfm

Prevailing Wage / Davis Bacon

Summary/Purpose of Requirements

Construction projects funded in whole or in part by the government require by law the payment of local, state or federal prevailing wage rates. The City of Cincinnati's Department of Economic Inclusion (DEI) will complete a Prevailing Wage Determination for each project to determine whether wage rate regulations apply. A wage determination is good for 90 days; if construction has not started in 90 days a new determination must be made.

In a federal prevailing wage project, the rates will lock in at the commencement of construction. In a state prevailing wage project the rates may change several times throughout construction.

Developer Responsibilities

1. Ensure that all laborers and mechanics working on a project are paid the appropriate state or federal wage rate as applicable. Also applies to employees of subcontractors.
2. When State Prevailing Wage Rates apply, make sure that pay rate adjustments are made if rates change during the project.
3. Submit certified weekly payrolls and other documentation required by local, state or federal law to the Department of Economic Inclusion.
4. Post applicable wage rates and posters at job site.
5. Maintain records as required by the City of Cincinnati, State of Ohio, or U.S. Department of Labor as applicable.

Applicability

Funding Type	Do Wage Rates Apply?	Notes
Community Development Block Grant (CDBG)	DEI will determine	8 or more total residential units
HOME Investment Partnerships Program (HOME)	DEI will determine	12 or more HOME-assisted units
CDBG Section 108	DEI will determine	
Neighborhood Stabilization Program (NSP)	DEI will determine	
City Capital, TIF, and equivalent	DEI will determine	5 or more total residential units
Community Reinvestment Area (CRA) Tax Abatement	DEI will determine	

Regulatory Reference

- Local: Cincinnati Municipal Code 321-D1, 321-D2, 321-118
- State: Ohio Revised Code 4115
- Federal: Davis-Bacon and Related Acts, Copeland "Anti-Kickback" Act, and the Contract Work Hours and Safety Standards Act.

Required Forms

- [DEI Prevailing Wage Forms webpage](#)

Wage Enforcement

Summary/Purpose of Requirements

The Cincinnati Municipal Code requires that city incentives support development that comply with local, state and federal wage and payroll laws, thereby ensuring that workers receive proper compensation for their work

The Wage Enforcement requirement applies to any contract relating to construction or real estate development whereby the city provides an incentive or benefit that is projected to exceed \$25,000, including but not limited to the following: Community Reinvestment Area tax abatements, Job creation tax credits, loans, any conveyance of land for less than fair market value, tax increment financing, and grants.

Grantee/ Subgrantee/ Developer Responsibilities

1. Complete an Affidavit Regarding Wage Theft or Payroll Fraud (WE-30)
2. Complete a Contractor/Subcontractor Utilization Plan (WE-20) listing all of the contractors that you have hired.
3. Require your 1st tier subcontractors to complete Affidavit Regarding Wage Theft or Payroll Fraud (WE-30) and the Contractor/Subcontractor Utilization Plan (WE-20) listing all of their subcontractors. All tier subcontractors will be required to submit a WE-30 and a WE-20 (if they subcontract).
4. Submit all Affidavits Regarding Wage Theft or Payroll Fraud (WE-30) and Contractor/Subcontractor Utilization Plans (WE-20) to the City for approval prior to commencement of work by each subcontractor
5. Include Wage Enforcement Requirements language in all of your subcontracts (which will require your subs to do the same in their subcontracts)
6. Post Wage Enforcement Poster on the job site in a conspicuous place (entrance, restroom area etc).

Applicability

Funding Type	Does Wage Enforcement Apply?
Community Development Block Grant (CDBG)	Yes. If the benefit to the Developer exceeds \$25,000
HOME Investment Partnerships Program (HOME)	
CDBG Section 108	
Neighborhood Stabilization Program (NSP)	
City Capital, TIF, and equivalent	
Community Reinvestment Area (CRA) Tax Abatement	

Regulatory Reference

- [Cincinnati Municipal Code Chapter 326](#)
- [Wage Enforcement Program Regulations](#)

Required Forms

- [Wage Enforcement Forms](#)

Living Wage

Summary/Purpose of Requirements

The Cincinnati Municipal Code requires a “living wage” for full-time, part-time, and seasonal City employees or service employee of a contractor or subcontractor providing or delivering services for the City of Cincinnati.

The living wage requirement applies only to service contracts with the City, defined as contracts with the City for the furnishing of services that includes restaurant, food service or banquet employees, janitorial employees, security guards, parking attendants, gardeners, waste management employees, and clerical employees as well as entities receiving 25% or more of its annual funding from the City of Cincinnati. Exceptions include: professional service contracts, grants/financial assistance provided to charitable or social service agencies, service contracts where services are incidental to the delivery of products, equipment, or commodities, and persons employed pursuant to federal or state laws relating to prevailing wages.

The living wage is adjusted annually. For a current listing of living wage rates, please visit the Department of Economic Inclusion’s website: <https://www.cincinnati-oh.gov/inclusion/>

Grantee/ Subgrantee/ Developer Responsibilities

1. Complete and notarize a Living Wage Affidavit of Compliance.
2. Pay all covered employees the current living wage.
3. Provide written notification to each current and new employee working on living wage contracts or agreements. Retain a signed copy of the form.

Applicability

Funding Type	Do Living Wage Rates Apply?
Community Development Block Grant (CDBG)	<u>Service Contracts</u> 25% annual funding from the City. Exceptions include: <ul style="list-style-type: none">• Professional Service Contracts• Grants/financial assistance provided to charitable or social service agencies• Service contracts where services are incidental to the delivery of products, equipment, or commodities
HOME Investment Partnerships Program (HOME)	
CDBG Section 108	
Neighborhood Stabilization Program (NSP)	
City Capital, TIF, and equivalent	
Community Reinvestment Area (CRA) Tax Abatement	

Regulatory Reference

- Local: Cincinnati Municipal Code Chapter 317, Ordinance 91-2016

Required Forms

- [Living Wage Forms](#)

Equal Employment Opportunity (EEO) Program

Summary/Purpose of Requirements

The Equal Employment Opportunity (EEO) program protects employees and applicants from discrimination due to race, religion, color, sex, sexual orientation, gender identity, national or ethnic origin, age, handicap, or Vietnam military service. Contractors and subcontractors are required to ensure that applicants are employed and that employees are treated during employment without regard to these classifications. EEO hiring goals for construction are 11.8% minority and 6.9% female (of whom one-half shall be minorities). Best efforts should be exercised to meet this requirement.

Grantee/ Subgrantee/ Developer Responsibilities

1. Complete the EEO Form 147 describing the company/organization's non-discriminatory policies and practices.
2. Post a complete EEO poster setting forth the provisions of the City's nondiscrimination clause. The poster can be obtained by calling the Office of Economic Inclusion at 513-352-3144.
3. State in all advertisements that applicants will receive consideration for employment without regard to race, religion, color, sex, sexual orientation, gender identity, or national origin.

Applicability

Funding Type	Does EEO Apply?	Notes
Community Development Block Grant (CDBG)	Yes	Applies to all contracts and subcontracts exceeding \$5,000
HOME Investment Partnerships Program (HOME)	Yes	
CDBG Section 108	Yes	
Neighborhood Stabilization Program (NSP)	Yes	
City Capital, TIF, and equivalent	Yes	
Community Reinvestment Area (CRA) Tax Abatement	Yes	

Regulatory Reference

- Local: City Council Ordinance 331-1999, 235-2013, and Cincinnati Municipal Code Chapter 325
- Federal: Executive Order 11246

Required Forms

- [EEO Form 147](#)

Pre-Construction Meeting

Summary/Purpose of Requirements

The purpose of the preconstruction meeting is to provide an opportunity for City staff, the Developer, and the General Contractor to review the project's scope of work, timeline, and contract requirements. The requirements for payment requests will be reviewed. A pre-construction meeting is required before a notice to proceed is issued.

Developer and General Contractor Responsibilities

1. Attend Meet and Confer prior to start of construction. Ensure that executive staff as well as project managers is in attendance.

Applicability

Funding Type	Does Pre-Con Apply?	Notes
Community Development Block Grant (CDBG)	YES	Construction only
HOME Investment Partnerships Program (HOME)	YES	
CDBG Section 108	YES	
Neighborhood Stabilization Program (NSP)	YES	
City Capital, TIF, and equivalent	YES	
Community Reinvestment Area (CRA) Tax Abatement	NO	

Required Forms

- Agenda, attendance and sign-in sheet