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**Grant Management Memorandum  
GMM-2022-22**

**Date:** December 18, 2020

**To:** All California Governor's Office of Emergency Services (Cal OES) Homeland Security (HSGP) and Emergency Management Performance Grant (EMPG) Subrecipients

**From:** Cal OES Homeland Security and Grants Processing Branch

**Subject:** Updated Noncompetitive Procurement Policy

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The California Governor's Office of Emergency Services (Cal OES), Homeland Security and Grants Processing Branch, is reminding subrecipients that all noncompetitive procurements in excess of the Simplified Acquisition Threshold (SAT), as determined by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 and in accordance with 41 U.S.C. 1908 (currently set at \$250,000), require approval from Cal OES.

Subrecipients must request and receive written approval from Cal OES for noncompetitive procurements that are over the SAT which are to be funded in whole or in part by HSGP or EMPG awards, *prior to obligating Federal funding for the procurement.*

Federal regulations found at 2 C.F.R. Part 200, Sections 200.318 – 200.326, require full and open competition for all procurement transactions funded by Federal awards. Procurement by noncompetitive proposals may only be used when the award of the contract/procurement is infeasible under small purchase procedures, sealed bids or competitive proposals, and one of the following circumstances applies:

- The item is available only from a single source;
- A public exigency or emergency for the required item or service will not permit a delay resulting from a competitive solicitation; or



- After solicitation of a number of sources, competition is determined to be inadequate.

**All noncompetitive procurements to be funded by HSGP or EMPG awards exceeding the SAT require Cal OES prior approval.** Cal OES prior approval is also required for all HSGP-funded noncompetitive procurements of training, regardless of the dollar amount, per GMM 2017-01-A.

Subrecipients are also reminded that 2 C.F.R. Part 200, Section 200.323, requires a cost or price analysis for all procurements and contract modifications over the SAT. In addition, profit must be negotiated as a separate element of price on all noncompetitive procurements, and whenever cost analysis is performed. Please note, your local procurement regulations may require cost analysis at a dollar threshold lower than the SAT. If so, the requirement for profit negotiation applies.

#### **What must be submitted to Cal OES for noncompetitive procurement approval?**

- Fully completed and signed Request for Noncompetitive Procurement Authorization form
- A copy of the cost or price analysis prepared for the procurement
- Copy of the most recent Cal OES approval letter and Noncompetitive Procurement Authorization form, if applicable

A copy of the revised form is located at: <https://www.caloes.ca.gov/cal-oes-divisions/grants-management/homeland-security-prop-1b-grant-programs/homeland-security-grants-program>

The revised Noncompetitive Procurement Authorization form is *effective immediately* and must be used for all noncompetitive procurement authorization requests received by Cal OES after **January 1, 2021**. Requests using a prior version of this form that are received after **January 1, 2021**, will be returned for resubmission.

This form is applicable to FY2020 and prior year awards only. For questions, please do not hesitate to contact your Cal OES Program Representative.