

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

This document compares procurement and contracting requirements for local governments under federal law applicable to FEMA Public Assistance Grants and applicable North Carolina state law. This document provides only a summary of federal and state procurement laws. Local governments should consult with their attorneys when entering into specific contracts to ensure compliance with all applicable laws.

Federal	State
Scope	
All federal grants and sub-grants are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the Uniform Guidance), codified at 2 C.F.R. Part 200. This includes the standards for procurement under grants, which applies to contracts for services, procurement of goods (such as supplies and equipment), and construction or repair. FEMA’s Procurement Disaster Assistance Team (PDAT) has developed guidance for interpreting and applying the Uniform Guidance. Helpful references include: • 2 C.F.R. Part 200, Appendix II • Contract Provisions Guide [hereinafter PDAT Contract Provisions Guide] • Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual (2021) [hereinafter PDAT Field Manual] Local governments must follow local policies and applicable state law except to the extent that federal requirements are more restrictive than local policies and state law. If there is an overlap with local, state, and federal rules, and none of the rules are more restrictive than another, the federal rules will apply. 2 C.F.R. § 200.318(a)	State law procurement requirements apply when state or local funds are used for procurement of goods, construction or repair, or architectural, engineering, or land surveying services. State law still applies even when federal funds. Most procurement requirements applicable to local governments are provided for under Article 8 of Chapter 143 of the North Carolina General Statutes. Many local governments have adopted local procurement policies. In addition to complying with state law, a local government must comply with its own procurement policies. Local procurement policies cannot be inconsistent with state or federal law. For more information on local government procurement requirements, see the School of Government’s local government purchasing and contracting website at www.ncpurchasing.unc.edu.
<i>Follow the “Most Restrictive Rule” for contracts involving federal funds.</i> <i>When comparing state and federal procurement requirements, comply with the requirement that is most restrictive.</i>	

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
Pre-Solicitation Requirements	
Maintain a contract administrative system for oversight of contract compliance. 2 C.F.R. § 200.318(b)	Not required under state law.
Avoid unnecessary or duplicative purchases. 2 C.F.R. § 200.318(d)	Not required under state law.
Consider consolidating or breaking out procurements to achieve a more economical purchase. 2 C.F.R. § 200.318(d)	Not required under state law; cannot divide a contract for the purpose of avoiding competitive bidding requirements. G.S. 143-133
Analyze benefits of purchase versus lease where appropriate. 2 C.F.R. § 200.318(d)	Not required under state law.
A recipient must have written procedures for procurement transactions. 2 C.F.R. 200.319(d)	
Maintain written standards of conduct covering conflicts of interest and actions of employees engaged in selection, award, and administration of contracts. 2 C.F.R. 200.318(c)	Local governments are not required by state law to have written standards of conduct, except that governing boards must have codes of ethics per G.S. 160A-86. Note that the conduct of local government employees and officers is governed by multiple statutes, including G.S. 14-234 and G.S. 133-32.

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
<i>Procurement of Recovered Materials</i>, 2 C.F.R. § 200.323 • Applies to items designated by the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 (e.g., carpet, park benches) where the purchase price exceeds \$10,000 or the value of the quantity procured during the prior fiscal year exceeded \$10,000. • Requires procurement of items that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. <i>Solid Waste Management Services</i> • Requires procurement of solid waste management services in a manner that maximizes energy and resource recovery <i>Affirmative Procurement Program</i> Requires establishment of an affirmative procurement program for procurement of recovered materials as designated by the EPA	Not required under state law.
Encouraged to use intergovernmental agreements for strategic sourcing where appropriate. 2 C.F.R. § 200.318(e)	Not required under state law; interlocal agreements authorized under Article 20 of G.S. Chapter 160A.
Encouraged to use federal surplus property where feasible instead of purchasing new property. 2 C.F.R. § 200.318(f)	Not required under state law; related exceptions to competitive purchasing requirements include: • Purchases from other units of government G.S. 143-129(e)(1) • Used items G.S. 143-129(e)(10)
Encouraged to use value engineering for construction contracts where applicable. 2 C.F.R. § 200.318(g)	Not required under state law.

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
Local government is responsible for resolution of all disputes related to the procurement and contract in accordance with good administrative practice and sound business judgment; bid protest procedure not required. 2 C.F.R. § 200.318(k)	Bid protest procedures not required under state law; dispute resolution procedure required for all building construction or repair contracts regardless of cost. G.S. 143-128(f1)
Cost and Price Requirements	
Must perform a cost or price analysis for every procurement action above the simplified acquisition (\$350,000) or local/state equivalent threshold if more restrictive; requirement also applies to contract modifications. The method and degree of the cost or price analysis is dependent on the facts of the procurement. 2 C.F.R. § 200.324(a)	Not required under state law.
Must conduct an independent estimate of costs for every procurement action prior to receiving bids or proposals. 2 C.F.R. § 200.324(a)	Not required under state law.
Cost or prices based on estimated costs for contracts are only allowable if they are allowable under the cost principles part of the Uniform Guidance, located in Subpart E . 2 C.F.R. § 200.324(c)	Not required under state law.

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
General Procurement Procedures	
Must ensure full and open competition and avoid measures that restrict competition, including: • Unreasonable requirements • Unnecessary experience and bonding requirements • Noncompetitive pricing between companies • Noncompetitive awards to consultants on retainer • Organizational conflicts of interest • Specifying only brand name without permitting equal products • Arbitrary actions 2 C.F.R. § 200.319(a)	Must comply with all applicable procurement requirements: • Purchase and construction/repair contracts in informal bidding range are subject to informal bidding requirements. G.S. 143-131 • Purchase and construction/repair contracts in the formal bidding range are subject to formal bidding requirements. G.S. 143-129 • Construction/repair contracts involving buildings are subject to additional bidding requirements. G.S. 143-128 • Engineer, architect, survey, and alternative construction delivery methods are subject to the qualifications-based selection process under the Mini-Brooks Act. G.S. 143-64.31
Must have written selection procedures that: • incorporate a clear and accurate description of good/service; and • identify all bidder/proposer requirements and all evaluation criteria 2 C.F.R. § 200.319(d)	No similar requirement in state law; purchase and construction/repair contracts in the formal bidding range subject to certain public notice requirements under G.S. 143-129(b); optional RFP procedure for procuring information technology goods and services must include evaluation criteria in the RFP. G.S. 143-129.8
Must incorporate a clear and accurate description of the technical requirements for the property, equipment, or service being procured. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to clearly and accurately describe the technical requirements, a “brand name or equivalent” description of features may be used to provide procurement requirements. The specific features of the named brand must be clearly stated. 2 C.F.R. 200.318(d)(2)	Limitations on brand name specifications for construction or repair contracts. G.S. 133-3(a)

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
If prequalified bidder lists are used, enough qualified firms must be included to ensure maximum competition; cannot preclude potential bidders from qualifying during the solicitation period. 2 C.F.R. § 200.319(e)	Prequalification not statutorily authorized for purchase contracts or contracts subject to Mini-Brooks Act; bidders may be prequalified for construction projects, but bids submitted by any bidder not prequalified are non-responsive. G.S. 143-135.8
Solicitation must acknowledge the use of FEMA funding for the contract. See PDAT Contract Provisions Guide at page 31 for recommended clause.	Not required under state law.
Procurement Methods	
<u>“Micro-Purchase” Procedure</u> • Applies to: - o All purchase of goods and services and construction - o Up to the micro-purchase threshold (\$15,000 default) or the equivalent local or state threshold if more restrictive or if the local government has self-certified to a higher threshold • Process: Can award contracts without competition if price is considered fair and reasonable, but must distribute micro-purchases equitably among qualified suppliers to the extent practicable. • Note: Cannot divide contracts to lower cost below micro-purchase threshold to avoid competitive bidding requirements. 2 C.F.R. §§ 200.1, 200.320(a)(1)	• No comparable provision in state law. • Purchase and construction or repair contracts costing less than \$30,000 are not subject to state competitive bidding requirements. Regardless of cost, service contracts are not subject to state competitive bidding requirements.

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
<u>“Simplified Acquisitions” Procedure</u> • Applies to: - o All purchases of goods and services and construction - o Up to the simplified acquisition threshold (\$350,000) or the equivalent local/state threshold if more restrictive - o Fixed price or not-to-exceed contract type • Process: Obtain price or rate quotes from an “adequate” number of qualified sources. Although an “adequate number” depends on the context, a good rule of thumb is three sources. • Standard of Award: Lowest cost responsible bidder 2 C.F.R. §§ 200.1, 200.320(a)(2)	<u>Informal Bidding Procedure</u> • Applies to: - o Purchase of goods costing between \$30,000 and \$90,000 - o Construction or repair contract costing between \$30,000 and \$500,000 • Process: Secure informal bids and keep record of bid; no minimum number of bids required to award contract • Standard of Award: Lowest responsive, responsible bidder G.S. 143-131
<u>“Sealed Bid” Procedure</u> • Applies to: - o Purchase and service contracts costing more than the simplified acquisition threshold (\$350,000) or the equivalent local/state threshold if more restrictive - o Preferred method for construction contracts above the simplified acquisition threshold. • Conditions for sealed bidding to be feasible - o A complete, adequate, and realistic specification or purchase description is available; - o At least 2 responsible bidders are willing and able to effectively compete; - o Procurement lends itself to a firm fixed price contract and selection can be made principally based on price • Process:	<u>Formal Bidding Procedure</u> • Applies to: - o Purchase of goods costing \$90,000 or more - o Construction/repair contract costing \$500,000 or more • Process: - o Public advertisement for at least 7 full days prior to bid opening - o Availability of specifications/plans included in public advertisement - o No minimum number of bids required for purchase contracts; construction/repair contracts require a minimum of 3 bids for opening - o Public bid opening at date and time advertised - o Unit of government reserves the right to reject all bids - o Additional requirements apply if the project involves a building (see G.S. 143-128)

Updated August 2026

Contact Crista Cuccaro (cuccaro@sog.unc.edu) with questions.

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
- o Public advertisement providing sufficient time for bidders to respond before bid opening - o Complete specifications/plans made available to bidders - o At least 2 responsible bidders required for bid opening - o Solicit bids from “adequate number of known suppliers” - o Public bid opening at date and time advertised - o Contract awarded on a firm-fixed-price basis in writing - o Determination of the lowest price must include consideration of factors such as discounts, transportation costs, and lifecycle costs - o Can reject any and all bids for “sound documented reasons” • Standard of Award: Lowest responsive, responsible bidder 2 C.F.R. § 200.320(b)(1)	• Standard of Award: Lowest responsive, responsible bidder G.S. 143-129
<u>“Competitive Proposal” Procedure</u> • Applies to: - o Any contract costing more than the simplified acquisition threshold (\$350,000) or the equivalent local/state threshold if more restrictive when conditions are not appropriate for the use of sealed bids • Procedure: - o Request for Proposals (RFP) must be publicly advertised - o Evaluation criteria and relative importance identified in RFP - o Any responses to the publicized RFP must be considered to the maximum extent practical - o Proposals solicited from an “adequate number of qualified sources” - o Must have written method for conducting technical	• No similar procedure in state law that generally applies to procurement; purchase and construction or repair contracts subject to informal and formal competitive bidding requirements. • Qualifications-based selection process required for procuring architectural, engineering, surveying, and construction management-at risk contracts. G.S. 143-64.31 • Optional RFP process authorized for procuring combination of information technology goods and services. G.S. 143-129.8 RFP process may (but are not required to) be used to procure service contracts (because service contracts entered into by local governments are not subject to state competitive bidding requirements).

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
evaluations of proposals and selecting a contractor Standard of Award: Responsible firm with most advantageous proposal, taking into account price and other factors identified in the RFP 2 C.F.R. § 200.320(b)(2)(iii)	
<u>Competitive Proposals Procedure for Soliciting Architectural and Engineering (A/E) Services</u> Applies to Architectural and Engineering services costing above the simplified acquisition threshold (\$350,000) or the equivalent local/state threshold if more restrictive but can be used for contracts below that amount Procedures: • Request for Qualifications (RFQ) is issued to solicit qualifications from qualified firms • RFQs must be publicly advertised • Any responses to the publicized RFQ must be considered to the maximum extent practical • Proposals solicited from an “adequate number of qualified sources” • Must have written method for conducting technical evaluations of proposals and selecting a contractor • Qualifications of respondents are evaluated to select most qualified firm Evaluation criteria and relative importance must be identified in RFQ; however; price is not a factor in the initial selection of the most qualified firm	<u>Qualifications-Based Selection (QBS) Procedure for Soliciting Architectural, Engineering, Surveying, and Construction Management At-Risk Services</u> Applies to: • Architectural, Engineering, Surveying, and Construction Management At-Risk services regardless of cost Procedures: • Request for Qualifications (RFQ) is announced to solicit qualifications from qualified firms • Qualifications of respondents are evaluated to select the most qualified firm • Price cannot be considered a factor in the initial selection of the most qualified firm • Once the most qualified firm is selected, fair and reasonable compensation can then be negotiated • State licensure requirements apply • Preference given for in-state (not local) firms over out of state firms • Exception: • Units of local government may exempt themselves

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
- Once the most qualified firm is selected, fair and reasonable compensation can then be negotiated - State licensure requirements apply - May use local geographic preferences for the procurement of these specific services, provided that this leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract Limitations: - Competitive proposal method for selecting A/E services cannot be used for other services even if those services can be performed by architectural and engineering firms (such as general consulting services) - Meaning of architectural/engineering services is explained in PDAT Field Manual at Ch. 5, Section 2.2.3 2 C.F.R. § 200.320(b)(2)(iv)	in writing from the QBS requirements if the estimated cost of the contract is less than \$50,000. NOTE: State exemption not recognized under federal law, but can be used if micro-purchase threshold has been increased to \$50,000. G.S. 143-64.31, -64.32
Exceptions to Procurement Requirements	
The Uniform Guidance identifies 5 exceptions to procurement, referred to as “non-competitive proposal”: micro-purchases, single source, emergency, written approval from the federal granting agency, and competition deemed inadequate after attempts to solicit. 2 C.F.R. 200.320(c) FEMA interprets emergency to also include exigency, which is explained in this blog post. Procedures:	See G.S. 143-129(e) for exceptions to competitive bidding requirements for certain purchases and construction/repair contracts. Chart of exceptions available here. Related exceptions to competitive bidding requirements under state law: “Sole-source” exception for purchases when - performance or price competition for a product are not available; - a needed product is available from only one source of supply; or

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
• Perform independent cost estimate • Perform cost or price analysis if procurement is above the simplified acquisition threshold (\$350,000) or the equivalent local/state threshold if more restrictive • Submit procurement documentation to awarding agency	• standardization or compatibility is the overriding consideration. G.S. 143-129(e)(6) Emergency purchases and construction/repair contracts in cases of special emergency involving the health and safety of the people or their property. G.S. 143-129(e)(2)
Relying on another entity's contracting process: • Federal rules do not allow exceptions for the requirements of full and open competition applicable to local governments, even for state purchasing programs and piggybacking. • Use of state purchasing program is only allowed if state contracts were procured in compliance with the rules applicable to local governments under 2 C.F.R. §§ 200.317-.327; see also PDAT Field Manual at Ch. 13, Sections 5.3-5.5 • Purchases from group purchasing programs generally not allowed	Relying on another entity's contracting process: Exceptions to competitive bidding requirements when using other entities' contracting processes are: • Group purchasing programs G.S. 143-129(e)(3) • State and federal contracts G.S. 143-129(e)(9), (9a) • Piggy-backing exception G.S. 143-129(g)
Contract Award Requirements	
Must award contracts to responsible contractors possessing the ability to perform successfully under the contract, including such factors as integrity, compliance with public policy, record of past performance, and financial and technical resources. 2 C.F.R. § 200.320	Award to lowest responsive, responsible bidder "taking into consideration quality, performance and the time specified in the proposals for the performance of the contract"; standard of award applies to contracts for purchases and construction/repair in the informal and formal bidding ranges. G.S. 143-129(b); G.S. 143-131

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
Maintain records of procurement, including rationale for method of procurement, selection of contract type, contractor selection or rejection, and basis for contract price. 2 C.F.R. § 200.318(i)	No similar requirement in state statutes; record of bids is required for purchase and construction/repair contracts in the informal bidding range (G.S. 143-131), and similar documentation recommended for formal purchase and construction/repair contracts.
Cannot award contracts or sub-contracts to federally debarred or suspended companies, which can be verified using www.sam.gov . 2 C.F.R. § 200.318(h)	- No authority for local governments to debar or suspend bidders. - The NC Department of Administration maintains a debarred vendor list: https://www.doa.nc.gov/divisions/purchase-contract/debarred-vendors.
Limit use of time and materials contracts to when no other contract is suitable; must include a ceiling price that the contractor exceeds at its own risk. 2 C.F.R. § 200.318(j)	While not specifically prohibited under state law, “time-and-materials” contracts are not consistent with the lowest responsive, responsible bidder standard of award for contracts subject to state competitive bidding requirements.
Cannot award “cost plus percentage of cost or percentage of construction cost contracts.” 2 C.F.R. § 200.322(c)	While not specifically prohibited under state law, “cost-plus” contracts are not consistent with the lowest responsive, responsible bidder standard of award for contracts subject to state competitive bidding requirements.

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
Minority Business (MWBE/HUB) Requirements	
Applies to: • Generally applies to all contracts regardless of type and cost. Procedures: Consider small and minority firms, women-owned business, and veteran-owned business for participation in contracts by doing the following: • Include on solicitation lists; • Solicit when such firms are potential bidders; • Divide total contract requirements where economically feasible to enable more minority participation; • Establish delivery schedules to encourage participation; • Use SBA and Minority Business Development Agency of US Dept. of Commerce; and • Require prime contractors to make same considerations. 2 C.F.R. § 200.321(b)	HUB requirements were repealed July 7, 2026; see more here.
Bonding Requirements	
Applies to: • Construction or “facility improvement” contracts costing more than the simplified acquisition threshold (\$350,000) or the equivalent local/state threshold if more restrictive • May not required if the federal agency or pass-through entity has determined the federal interest is adequately protected	Applies to: • Construction and repair contracts Bonds Required: • Bid bond (or other specified guarantee) of 5% of bid price required for construction/repair bids costing \$500,000 or more

Updated August 2026

Contact Crista Cuccaro (cuccaro@sog.unc.edu) with questions.

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
Bonds Required: • Bid bond (or other specified guarantee) of 5% of bid price; and • Performance and payment bonds for 100% of contract price	• Performance and Payment Bonds for 100% of contract price for each contract costing \$50,000 or more that is part of a construction project costing \$300,000 or more G.S. 143-129(b),(c)
Contract Provisions	
Include all applicable contract provisions found in Appendix II to 2 C.F.R. 200 2 C.F.R. § 200.327; 2 C.F.R. pt. 200, App. II; See also PDAT Contract Provisions Guide	No comparable requirement under state law.
The recipient should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards, contracts, and purchase orders under Federal awards. 2 C.F.R. 200.322	No comparable requirement under state law.
Access to Records	
<i>Solicitation Documents</i> • Must make technical specifications on proposed procurements available to FEMA or North Carolina generally, prior to the time the specification is incorporated into a solicitation document	No comparable requirement under state law, but note that the Joint Legislative Commission on Governmental Operations can compel access to any document or system of record held by a unit of local government.

Comparison of Federal and State Procurement Requirements

For FEMA Public Assistance Grants to North Carolina Local Governments

Federal	State
upon request when FEMA or North Carolina believes such a review is needed to ensure the item or service specified is the one being proposed for acquisition <i>Procurement Documents</i> • Must make procurement documents, such as requests for proposals or invitations for bids or independent cost estimates, available to FEMA or North Carolina upon request for pre-procurement review • May be exempted from this review if FEMA or North Carolina determines its procurement system complies with the procurement standards of the Uniform Rules 2 C.F.R. §200.325(c)	All bid documents are public records under state Public Records laws and are subject to the records retention schedule developed by the NC Department of Cultural Resources.