

Procurement Workshop

OFFICE OF COMMUNITY DEVELOPMENT- LOCAL GOVERNMENT
ASSISTANCE



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Agenda

1. Purpose, Basic Information, Monitoring Procurement & General Procurement Principles
2. Federal Procurement Procedures: Methods & Contract Types
3. Format of Competitive Proposals
4. Evaluating Factors
5. Evaluation & Scoring Methods
6. Examples
7. Final Notes

Purpose

- To acquaint potential applicants of federally assisted programs with the federal grant procurement requirements; with an emphasis on utilizing competitive proposals for procurement of professional services.

Basics

Step 1: If the entity does not have a procurement policy, the entity has to draft a procurement policy and the council, board, etc. must adopt it. There is an outline on LCDBG's website under Forms and Information in the LCDBG Procurement Procedures.

Step 2: Follow the adopted policy.

Step 3: Maintain ALL files related to the procurement. OCD-LGA will review during monitoring visits.

Step 4: Must ensure that the procedure is conducted to ensure full and open competition.

Basics-The Solicitation

The solicitation must be publicized!

- Entity website, Facebook page, Official Journal
- Direct solicitation of 10 firms (engineering firms and consulting firms)
- OCD-LGA will have a place on the website to publicize advertisements for entities
- The solicitation must be available for a minimum of 2 weeks
- These are steps to ensure fair competition.
- Water Sector Projects do not require prior approval, but it is recommended.

Basics-Monitoring

To borrow one of Jimmy Martin's favorite sayings...If it is not in writing, it did not happen!!!

Everything needs to be in writing and in your file.

Each procurement should have its own file for monitoring purposes.

What we will look for when we come monitor:

1. Adopted Procurement Policy (dates, etc.)
2. Request for Proposals (Admin Firms)
 - Solicitation: how it was solicited, copies of proposals, one or more response
 - Evidence of the selection process
3. Request for Qualifications (Engineers/Architects)
 - Solicitation: how it was solicited, copies of proposals, one or more response
 - Evidence of the selection process
4. Was there any evidence that competition was restricted?

Basics-Monitoring

Was there any evidence of situations restricting competition?

- Contractors involved in the procurement process competing for an award?
- Any other non-competitive or arbitrary actions?

Non-Competitive Proposals

- Rationale for using this method.
- Were any of the following applicable 2 CFR 200.320(f)
 - Item is available from a single source
 - Public exigency or emergency for the requirement
 - OCD-LGA authorized in response to a written request for LCDBG projects

Inadequate Competition

- Did the applicant sufficiently publicize the solicitation?
- Was there evidence of restrictive requirements or arbitrary actions?
 - Item is available from a single source
 - Public exigency or emergency for the requirement
 - OCD-LGA authorized in response to a written request for LCDBG projects

Basics-Monitoring

Does the contract include the following:

- Scope of services with breakout of prices or estimated costs
- Contract amount for fixed price contracts
- Method of compensation
- Contract dates begin and end date
- Access to Records Clause

Are the following provisions included in the contract:

- Contracts for more than simplified acquisition threshold
- Cause and Convenience
- Rights to Inventions Made Under a Contract
- Clean Air Act and Federal Water Pollution Control Act
- Debarment and Suspension
- Byrd Anti-Lobbying Amendment

Was the contract amended?

Was the contract signed by all parties?

Does the consultant's contract withhold 10% for LCDBG Projects?

Basics- Common Questions

How many people do we need to rate/score the RFP/RFQ?

- Typically it is common for 3 people to score the applications.
- Mayor, Clerk, Board/Council person, or employee of the entity

Who can score/rate the applications?

- An engineer cannot score the applications for the engineering firm if they are competing for the job.
- If you are applying for a Public Facilities, Water Sector, etc. project, it would be beneficial if you have someone from the Public Works Department to assist in scoring.

Procurement Principles

General Procurement Principles

- **All procurement transactions**, regardless of dollar amount, must be conducted to provide “full and open competition” [2 CFR 200.319]. Some of the situations considered to be restrictive of competition include, but are not limited to:
 - Placing unreasonable requirements on firms in order for them to qualify to do business. Requiring unnecessary experience and excessive bonding.
 - Noncompetitive pricing practices between firms or between affiliated companies. Noncompetitive awards to consultants that are on retainer contracts.
- Organizational conflicts of interest. Specifying only a “brand name” product instead of allowing an “equal” product to be offered and describing the performance of other relevant requirements of the procurement.
- Any arbitrary action in the procurement process.
- Methods of procurement to be followed when purchasing materials and supplies or contracting for services must be included [2 CFR 200.320].

General Procurement Principles

- **A code of conduct** that prohibits elected officials, staff, or agents from personally benefiting from federal procurement must be included. The policy should prohibit the solicitation or acceptance of favors or gratuities from contractors or potential contractors. Sanctions or penalties for violations of the code of conduct by either grantee officials, staff or agents, or by contractors or their agents must be identified [2 CFR 200.318 (c)(1)].
- **Proposed procurements** must be reviewed by staff to avoid unnecessary and duplicative purchases. Also, consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. [2 CFR 200.318 (d)].
- **Affirmative efforts** must be undertaken to hire women's business enterprises, minority firms and labor surplus firms, both by the grantee and the project's prime contractor [2 CFR 200.321].

General Procurement Principles

- **The method of contracting** outlined in the policy should be acceptable (fixed price, cost plus fixed fee, purchase orders, etc.). Cost plus a percentage of cost contracts must be specifically prohibited if federal funds are involved [2 CFR 200.323].
- **Procedures** to handle and resolve disputes relating to procurement actions of the grantee must be included [2 CFR 200.318 (k)].
- **Methods of procurement** to be followed when purchasing materials and supplies or contracting for services must be included [2 CFR 200.320].
- **Conflicts of interest** in the award and/or administration of contracts must be avoided. “No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

Procurement Methods & Contract Types

Methods of Procurement

Micro-purchase, Small Purchase & Sealed Bid

- Price Determination
- Best value is lowest price
- Adherence to a established process for different purchases

Competitive Proposals

- Qualitative Factors and Cost
 - select the proposal that represents the best value.
- Results of the solicitation
- Planning and Approach are required for different purchases

Methods of Procurement

Methods for fixed price purchases:

Purchases or Awards based upon a definitive price

- **Micro purchase**
 - up to \$10,000; competitive solicitation not required
- **Small purchase**
 - up to \$30,000 [State law]; quotations or other competitive solicitation required
- **Sealed Bids**
 - formal advertising; bids opened publicly; selection by price; fixed price contract award

Methods of Procurement

Methods for negotiated price or cost reimbursement purchases:

- **Competitive Proposals**
 - Cost and qualitative factors are considered; typically used for professional services; Request for Proposals [RFPs] for administrative consultants and Request for Qualifications [RFQs] for engineering firms.

Federal Contract Types

- **Fixed Price**
 - When the procurement consists of certainty of performance and has specific accomplishments and deliverables
- **Cost Reimbursement**
 - When the procurement consists of performance uncertainties; reimburses both efforts and specific accomplishments and deliverables
- **Time and Materials**
 - A time and materials contract provides for acquiring supplies on the basis of:
 - Direct labor hours at specific hourly rates that include wages, overhead, general and administrative expenses and profit, and
 - Materials at cost, including, if appropriate material handling costs as part of material costs

Federal Contract Pricing

Lump Sum Price

- For a definable work product or deliverable; all contractor costs are contained in a single price

Unit Price

- For iterations of lump sum work products or deliverables

Billable Hours

- For applied work efforts with other costs included as overhead charges

Reimbursable Costs

- For significant itemized costs in addition to personnel compensation

Competitive Proposals

Format for Competitive Proposals

1. PURPOSE

Explains why the entity is issuing this proposal

2. OBJECTIVE

Explains what this procurement is seeking to obtain

3. BACKGROUND OF THE ISSUER

Provides information on the entity and pertinent information on the project

4. DEFINITIONS

Identifies any items that are peculiar to the procurement

Format for Competitive Proposals

5. PROJECT DESCRIPTION

Provides sufficient information for proposers to estimate work efforts and time needed to accomplish tasks

6. SCHEDULE OF EVENTS

Outlines the significant events of the procurement

7. SCOPE OF SERVICES

Identifies what tasks and/or accomplishments contractor will perform

8. CONTRACT AND PAYMENTS

Identifies the type of contract and type(s) of prices that will be utilized in the contract

Format for Competitive Proposals

9. PROPOSERS INFORMATION

Identifies relevant information about each proposer

10. SELECTION PROCESS

Identifies how and who will be conducting the evaluation; one step or two step process, interviews

11. EVALUATION CRITERIA

Threshold Requirements:

Minimum requirements for all proposers to compete

Weighted Evaluation Criteria:

The criteria used for comparison of proposers and selection of contractor

Format for Competitive Proposals

12. PRICE/COST

Identifies how much weight price/cost; required for all procurement except design professionals

13. SUBMISSION REQUIREMENTS

- Request additional or pertinent information not elsewhere requested
- States Requirements for Submission of RFP/RFQ

Threshold vs. Weighted Point Criteria

Threshold Requirements:

- Factors that are important to the procurement, but are also likely to be common among the proposers and therefore will not provide meaningful discrimination among competing proposals.
 - **DUNS Registration**
 - **Years in business**
 - **Number of CDBG projects completed**

Weighted Evaluation Criteria:

- Factors that are important to the procurement and will provide meaningful comparison among proposers, separating the stronger from weaker proposals.

Evaluation Factors

Evaluation Factors

- Select the source or sources whose proposal is the best value to the entity; the best value may not always be the lowest price if other **evaluation factors** can establish a better value
- Evaluation factors must
 - Represent the key areas of importance and emphasis to be considered in the source selection decision; and
 - Support meaningful comparison and discrimination between and among competing proposals.

Evaluation Areas/Subjects

<u>Evaluation Factors:</u>	
Qualifications	
Experience	
Capabilities	
Past Performance	
Approach Plan	

Evaluation Areas/Subjects

<u>Evaluation Factors:</u>	
Qualifications	} Easier to Use; but less impactful
Experience	
Capabilities	
Past Performance	} More impactful, but more difficult to use
Approach Plan	

Evaluation Areas/Subjects

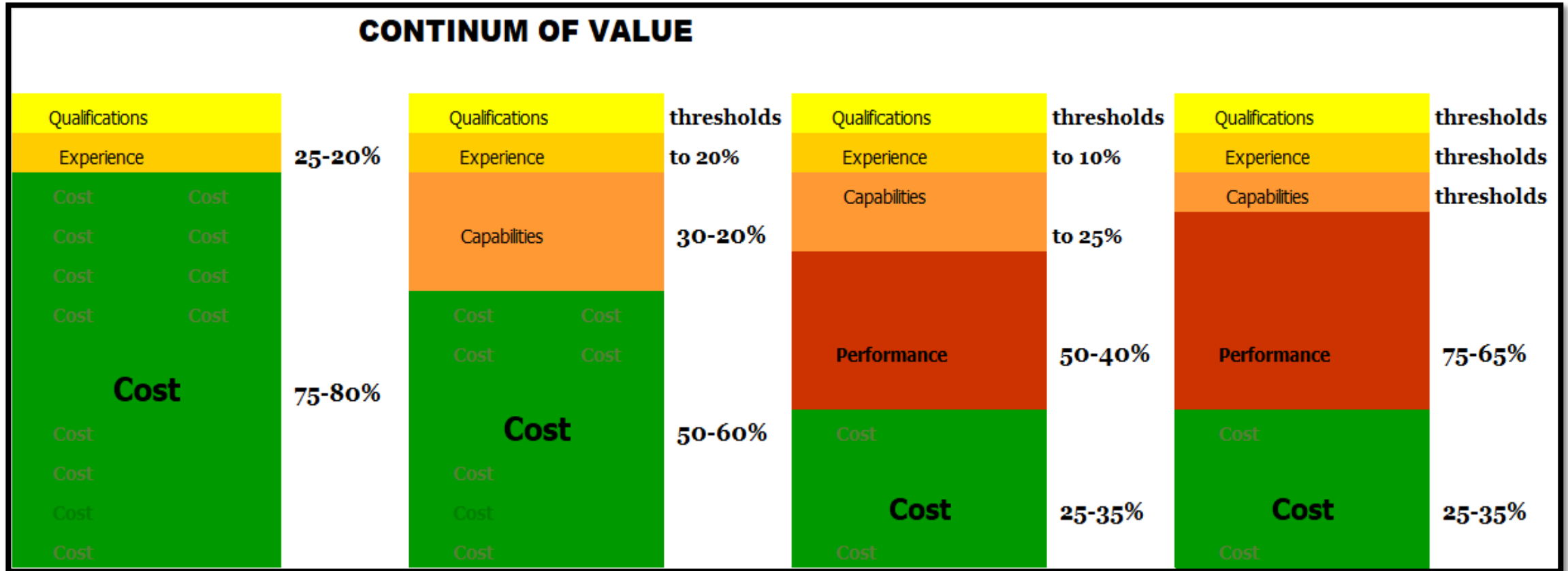
<u>Evaluation Factors:</u>	<u>to Determine:</u>	
Qualifications	what the proposer is qualified to do-	
Experience	what has the proposer actually done-	
Capabilities	what can the proposer do-	
Past Performance	how well has proposer done comparable work-	
Approach Plan	that the <u>objective</u> , <u>project description</u> and <u>scope of services</u> all align	

Evaluation Areas/Subjects

<u>Evaluation Factors:</u>		<u>Examples:</u>
Qualifications		academic and/or personnel experience of firm's personnel to be employed by this project
Experience		firm's previous comparable projects by type, size and number,
Capabilities		what personnel and their qualification/specialties are available
Past Performance		quantifiable measures proposer has performed previously
Approach Plan		Proposers are asked for their recommendations on how to accomplish the "objective" implied in the program description

<u>Evaluation Factors:</u>	Advantages	Disadvantages
Qualifications	Simple to use; does not require much data gathering from proposers, can apply quantitative analysis and comparison; can be used as a threshold factor	Not useful as a discriminating factor nor provides much meaningful impact
Experience	Simple to use; does not require much data gathering from proposers, can apply quantitative analysis and comparison; can be used as a threshold factor	Not useful as a discriminating factor nor provides much meaningful impact
Capabilities	Can provide meaningful discrimination among proposers, Can apply quantitative analysis and comparison	Difficult to use as a threshold
Past Performance	Can provide meaningful discrimination among proposers	Requires extensive data gathering, Requires subjective evaluation and extensive written evaluation plan; requires multiple person evaluation to check bias
Approach Plan	Can provide meaningful discrimination among proposers	Requires subjective evaluation and extensive written evaluation plan; requires multiple person evaluation to check bias

Evaluation Factors – Establishing Value



Evaluation Factor Components

200.320 (b)(2) “...must have a written method for conducting technical evaluations of the proposals”

<u>COMPONENT:</u>	<u>Explanation:</u>
Rating Factor:	Identify the <u>factor</u> to be evaluated.
Evaluation criteria:	Identify what <u>items</u> will be evaluated.
Rating Factor Rationale:	Explain the <u>reason</u> the factor is relevant to this contractor selection.
Submission requirements:	Identify the items proposers must <u>submit</u> for factor evaluation.
Evaluation basis:	Explain <u>how</u> the items will be evaluated.

Evaluation & Scoring Methods

Scoring & Evaluation Methods

- **Comparative Point Scale** - Can be used in all scoring situations. Provides for a precise comparative measurement of the evaluated items among the proposers.
- **Grouping Point Scale** - To be used when COST is the most significant other scoring factor. Is used to highlight a significant qualitative difference between proposers; a higher cost proposer may be the better value because it scores substantially better with qualitative measure. Should NOT be used unless COST is heavily weighted.
- **Ordinal Ranking** - To be used when quick but less precise or detailed score is required.
- **Weighted Pointed System** - Similar to the Comparative Point System; To be used when some components of the evaluated item are more important than others and are scored accordingly.
- **Adjectival Rating Systems** - Adjectival rating systems must have clearly defined criteria that distinguish one rating adjective from another
- **Evaluation Factor**- Experience: Number of Projects in the last x years

Additional Information

- Office of Community Development’s LCDBG Program is federally funded by the U.S. Department of Housing and Urban Development
- Department’s Procurement guidance is provided by HUD Handbook 7460.8
- OCD’s Procurement guidance is provided on our website
 - [Forms and Information - Louisiana Division of Administration \(la.gov\)](#)

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Forms and Information

- [Procurement and Citizen Participation Slideshow 1/28/2021](#)
- [LCDBG Procurement Procedures](#)
- [Subrecipient Agreement for Administrative Activities](#)
- [LCDBG Administrative Consultant Contract](#)

Additional Information

2 CFR § 200.101 Applicability.

- “The requirements established in this part apply to Federal agencies that make Federal **awards to non-Federal entities**. These requirements are applicable to all costs related to Federal awards.”
- “*Administrative requirements.* [Subparts B](#) through [D of this part](#) [Procurement] set forth the uniform administrative requirements for grant and cooperative agreements...”

§ 200.1 Definitions.

- “*Non-Federal entity (NFE)* means a State, **local government**, Indian tribe, Institution of Higher Education (IHE), or **nonprofit organization** that carries out a Federal award as a recipient or subrecipient..”

§ 200.318 General procurement standards.

- “The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward.”

Additional Information

2 CFR § 200.319

- “All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, ...
- Competition ...contractors that **develop or draft** specifications, requirements, statements of work, or invitations for bids or **requests for proposals must be excluded** from competing for such procurements

Records 2 CFR § 200.317(h)

- “The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.”

Additional Information

2 CFR § 200.319 (e)

- “...all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition.”

Records 2 CFR § 200.318(e)

...the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.”

Just a Reminder

- OCD-LGA is here to offer technical assistance throughout the procurement process.
- The RFQ/RFP cannot be issued without OCD-LGA approval for LCDBG projects.
- If the municipality is paying for administration and engineering fees with local funds, OCD-LGA does not need to approve the solicitation because federal procurement rules do not apply.
- Water Sector is federally funded and must follow 2 CFR Part 200 requirements.
- You can find a sample procurement policy on our website under LCDBG Procurement Procedures.

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