



Procurement

1



Who is Affected?

5101:9-4-07(A)(1&2)

- CDJFS
- PCSA
- CSEA
- WIA
- Subrecipients

2



In general

- Each agency should have written in-house acquisition policy (5101:9-4-02) Samples are available on the ODJFS Inner Web, <http://ifs.ohio.gov/ofs/bmcs/technicalmaterials.stm>, "Procurement Plan Templates"
- Each agency should have a written Code of Standards and Conduct (5101:9-4-04)
- The procurement process should ensure open and free competition (don't specify a brand name) (5101:9-4-07(B)(2))
- Subgrants are not a purchase

3



Methods of Procurement

5101:9-4-07.1

- Competitive:
 - Small Purchases – Most restrictive threshold between federal, state, and local policies
 - Competitive Sealed Bidding
 - Competitive Proposals
- Non-Competitive
- State Purchasing Contracts

4



Small Purchases

5101:9-4-07.1(B)(1)

- Two types of small purchases:
 - Price is overriding factor – standardized product or services (Example: Office equipment and supplies)
 - Price is not overriding factor – simple purchase where quality and performance must be evaluated (Example: Consulting service)

5



Small Purchase cont.

- Price is overriding factor
 - Example: Office equipment and supplies
 - Aggregate acquisition costs cannot exceed most restrictive threshold
 - Obtain at least three price or rate quotes

6



Small Purchase cont.

- Price is not overriding factor
 - Example: Consulting service
 - Document evaluation factors and their importance
 - Obtain at least three proposals
 - Maintain a list of qualified sources, including those that have expressed interest in providing products or services

7



Competitive Sealed Bidding

5101:9-4-07.1(B)(2)

- Use when it is not a small purchase but you have complete and comprehensive specifications and at least two potential bidders
- Requires formal public advertising (ITB – Invitation to Bid; the acquisition process used by CFSAs to solicit competitive sealed bids from vendors)
- A firm fixed price contract can be awarded principally on the basis of price

8



Competitive Proposals

5101:9-4-07.1(B)(3)

- Use when small purchase, sealed bidding, or non-competitive proposals do not apply
- Complex and technical (Architectural Engineering services, for example)
- Contract will be evaluated on other than price alone (RFP – Request for Proposals; the purchasing agency's bid specifications)

9



RFPs: Things to Consider

- Put as much thought into the RFP as you will in writing the contract
 - You are bound by the RFP language
 - Don't include things you don't need
 - If there is the possibility of extending the contract, include the details (when and how many times)

10



Noncompetitive 5101:9-4-07.1(C)

- Can only use noncompetitive proposals if none of the other procurement options apply:
 - Item only available from one source
 - Public exigency or emergency
 - Prior approved by awarding agency to be noncompetitive, see FAPL 36 for process
 - Prices are established by law
 - Competition is inadequate and deemed a failed competitive procurement

11



Noncompetitive cont.

- Any noncompetitive procurement in excess of the small purchase threshold must be documented by:
 - Copies of public advertisement
 - List of providers contacted
 - Copies of letters from prospective bidders including those indicating lack of interest in the contract
 - Other materials that help justify the use of noncompetitive procurement
 - Cost analysis including the independent estimate

12



Special Circumstances

- State Purchasing Contracts
5101:9-4-07.1(D)(1)
 - Not to be confused with state term schedules (See “State Term Contracts vs. State Term Schedules” handout)
 - Requires participation in the DAS cooperative purchasing program; information available at: das.ohio.gov/CooperativePurchasing

13



Special Circumstances cont.

- FCM and child welfare service purchases
5101:9-4-07.1(D)(2)
 - Purchases made pursuant to 5101:2-47-23.1 will generally be:
 - Considered to follow small purchase or noncompetitive procedure for individually specific cases
 - Documented by the PCSA to support each case

14



Independent Estimate 45 C.F.R. 92.36 (f)

- Before receiving bids or proposals the agency must make an independent estimate
 - Bid/proposal prepared by the agency
 - Consider necessary costs and their value
 - Helps in development of the ITB or RFP
 - Will be used when doing non-competitive procurement

15



Cost and/or Price Analysis
5101:9-4-07(B)(1)(a)

- All purchases, including contract modifications, will involve some level of cost or price analysis
 - Some purchases will require cost analysis
 - Price will likely come into play on most if not all purchases, even when you have done a cost analysis

16



Definition - Cost

- “Cost”
 - Amount acceptable to the Federal awarding agency
 - Cost is typically broken down into items or elements of cost (See 2 CFR 225)
 - A Cost Analysis is typically done at the cost element level

17



Definition – Cost Analysis
5101:9-4-01(E)

- “Cost Analysis”
 - Review and evaluation of separate cost elements
 - Using judgment to determine how well those costs represent what they should be

18



“Cost Analysis” cont.

- Cost elements should be compared against one or more of the following:
 - Actual costs previously incurred by the same supplier
 - Previous cost estimates for the same or similar items (consider your “independent estimate”)
 - Other cost estimates received for the solicitation
 - Independent cost estimates by technical personnel
 - Forecasts of planned expenditures

19



Definition – Price Analysis 5101:9-4-01(M)

- “Price Analysis”
 - Evaluating a proposed price to determine if it is fair and reasonable (would a prudent person consider the price fair and reasonable in the same circumstance?)
 - Does not go to the level of evaluating individual elements of cost

20



“Price Analysis” cont.

- Comparisons should be made with one or more of the following:
 - Other prices or quotes submitted
 - Published catalog or market prices
 - Prices set by law or regulation
 - Prices for same or similar items
 - Market indexes
 - Other standardized data

21



When do I use ...?

5101:9-4-07(B)(1)(a)(i)

- Use a Cost Analysis when:
 - The bidder has to submit the elements of cost
 - There is not adequate competition
 - For sole source procurements (unless a price analysis is sufficient)

22



When do I use ...?

5101:9-4-07(B)(1)(a)(ii)

- Use a Price Analysis when:
 - You don't need to use a cost analysis and you need to determine the reasonableness of the proposed price

23



Negotiating Profit

5101:9-4-07(B)(1)(b)

- Needed when a cost analysis is performed or there is no price competition
- Negotiate separately from other elements of the price
- Cannot use cost plus a percentage of cost, or percentage of construction cost methods

24



Negotiating Profit cont.

- Considerations in negotiation:
 - Complexity of the work
 - Risk borne by the contractor
 - Contractor's investment
 - Amount of subcontracting
 - Quality of past performance
 - Industry profit rates for similar work in your area

25



Miscellaneous Procurement Items

5101:9-4-07(B)(3) through (C)(13)

- Written selection procedures
- Preference for products/services provided by persons with severe disabilities
- Geographic preference – not with federal funds!
- Debarment: www.epls.gov
- Finding for Recovery: www.auditor.state.oh.us/resources/findings/default.htm
- General contracting requirements

26



After Procurement

- Charging the costs:
 - Direct Costs – Benefit one program; charged to one program (Contracts for services that benefit an individual program shall be charged to that program and not the cost pools 5101:9-1-04(E))
 - Cost Pools – Benefit more than one program; charged to a cost pool and distributed among programs via cost allocation process

27



After Procurement cont.

- Contract Monitoring 5101:9-4-07(B)(7)
 - You need to have a defined monitoring process
 - You monitor to ensure that what was purchased is what is delivered
 - Document the monitoring

28



After Procurement cont.

- Asset Reimbursement 5101:9-4-10
 - May expense an acquisition with a cost of less than \$5,000 or the local requirement if it is more restrictive
 - Must depreciate an acquisition with a cost of greater than \$5,000 or the local requirement if it is more restrictive

29
