

**Office
of
Legal
&
Acquisition
Services
(OLAS)**

ODJFS processes for
Procurement Planning
& Competitive Procurements

A Quiz!

Write the “special” word on the lines:

ODJFS Office of Legal & Acquisition Services

- We are the procurement experts for ODJFS.
- We develop all ODJFS legally binding agreements such as personal service contracts, grant agreements, interagency agreements, etc.
- Office of Contracts and Acquisitions provides county prior approval.
- We were the primary drafters of the Fiscal Administrative Procedure Letter (FAPL) No. 2.

OLAS

- We are a general support area that assists each directorate within the department.
- The OCA deputy director is the principal advisor to the ODJFS Director on contracting and procurement issues.
- We work with the Department of Administrative Services (DAS) and its Office of Information Technology (OIT) on issues related to personal service contracts and RFPs.

OLAS

- We provide technical assistance to all ODJFS program areas on each aspect of the procurement of goods and services.
- We ensure that agreements are awarded through fair and open competition.
- We develop and provide training for ODJFS' agreement managers.

Code of Federal Regulations:

- Federal Acquisition Requirements – 48 CFR vol.1 (general information – the “FAR”)
- DOL-specific procurement information is found at:
 - 29 CFR 95.40 (through 95.48) and
 - 29 CFR 97.36
- Comparable CFR regulations for HHS, Dept. of Agriculture, etc.

Federal funding comes with certain requirements on how it can be used and how it must be accounted for.

Recipients of Federal funding must comply. Any sub-recipients or lower-tier sub-recipients must also comply.

The terms and conditions follow the money.

Sub-recipients:

- Determine eligibility.
- Performance is measured by grant program objectives.
- Responsible for programmatic decision making.
- Responsible for Federal compliance.
- Carry out key program functions.

Vendors:

- Provide goods and/or services.
- Provide to many purchasers – their standard business.
- Operate in a competitive environment.
- Goods and services ancillary to operation of federal program.

- Always refer to local, state, & federal guidelines.
- Most restrictive requirements apply!
- Federal Law dictates the threshold at \$100,000.
- Use procurement method/type best suited to the project, even if a less complex method may be permissible.

ODJFS Procurement Document Types

Approach	Used For	Results In	Per CFR or FAPL # 2
Informal Bids-but documented	Standard Service or Product	Contract or Purchase Order (PO)	Small Purchase Procedures
Request for Proposals	Most Detailed	Contracts	Competitive Proposals
Request for Letterhead bid	For standard services with minimal customization OR for selection from the State Term Schedule vendor pool	Contracts or Purchase Order	Competitive Proposals or Procurement by Sealed Bids
RFGA	Includes elements of RFP/RLB plus grant agreement.	Grants	Competitive Proposals

29 CFR 97.36 - Procurement Methods:

➤ Small Purchase Procedures –

➤ Below SAT.

➤ For Simple & Informal Procurements.

➤ Price or Rate Quotes Required from Adequate Number of Qualified Sources.

29 CFR 97.36 - Procurement Methods:

➤ Procurement by Sealed Bids

➤ Publicly Solicited.

➤ For Firm-Fixed-Price Contract.

➤ Awarded to lowest-priced responsible bidder.

➤ Good, complete, realistic specs are required.

➤ Two or more responsible bidders compete.

29 CFR 97.36 - Procurement Methods:

- Procurement by Competitive Proposals
 - Publicly solicited.
 - All evaluation factors & relative weights.
 - Detailed system for technical evaluation of proposals and vendor selection.
 - Awarded to the responsible vendors offering the most advantageous proposal, based on price and other factors.

29 CFR 97.36 - Procurement Methods:

- Procurement by Non-Competitive Proposals
 - Public emergency prohibits delay.
 - Solicitation from only one source or after competition is attempted, but deemed inadequate.
 - Awarding agency may approve non-competitive selection.
 - Cost analysis is required.

OCA HAS A ROLE HERE!

“Prior Approval”

Document and Detail Your Substantial and Compelling Business Reason:

- Sole Source: The Dali Lama
- Emergencies: A flood? Or, forgot to plan?
- Failed Competitive Procurements: No qualified responses

Procurements: use maximum open and free competition.

29 CFR 97.36 (c) identifies some unfair restrictions on competition –

- Unreasonable requirements on vendors to win business
- Requiring excessive experience
- Brand-name specifications

Think about REASONABLENESS.

29 CFR 95.43 : “All procurement transactions shall be conducted in a manner to provide, the maximum extent practical, open and free competition.”

OTHER IMPORTANT CFR RESOURCES:

29 CFR 95.42 – Written Code of Conduct for employees in procurement and contract administration.

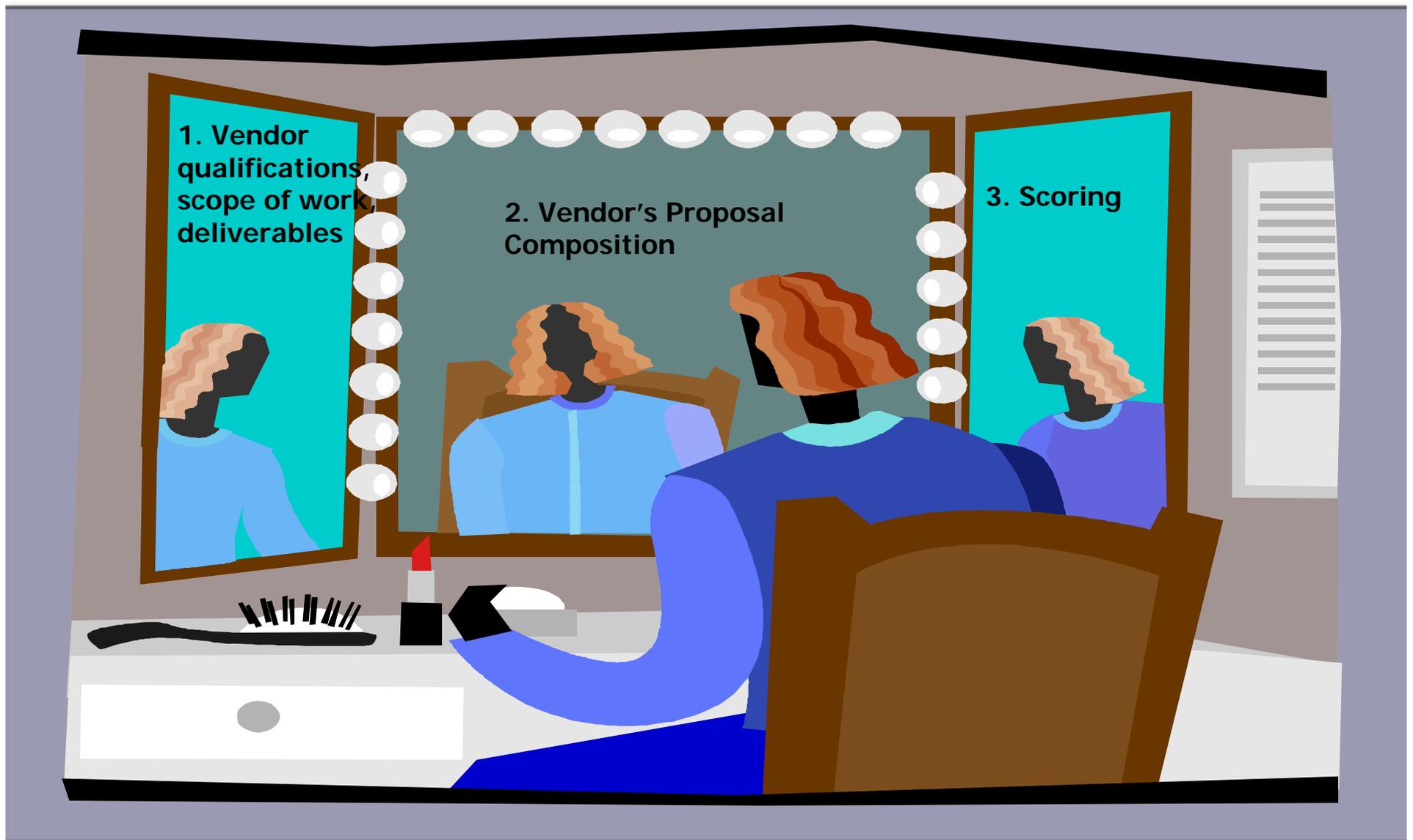
29 CFR 95.44 – Written Procurement Procedures are Required.

29 CFR 95.45 – Cost or Price Analysis Requirements.

29 CFR 95.46 – Required Procurement Records (basis of vendor selection and basis of cost or price, at minimum).

29 CFR 95.47 – Written system must be in place for Contract Administration, including monitoring, evaluating, and documenting contractor performance.

Procurements: A Three-Sided Mirror



Side 1. Clear Communication of the Need

The procurement document should describe:

- What we need
- Why we need it
- When and how we need it done and/or provided
- Who is qualified to perform the services or provide the goods
- How we will evaluate proposals and select vendors

Deliverables/Specifications Development Tips

- In order to be enforceable, contract deliverables must be clear, specific, meaningful, and measurable.
- Deliverables should be specific enough so that if agency and/or key contractor staff win the lottery, replacement staff can pick up the contract and understand exactly what is intended. (In contracts, Ohio is a Four-Corners state.)
- Deliverables should not be so specific that only one vendor could win the competition.

Balance

- The more definitive you can be about the outcome you need, the greater the selection emphasis on vendors' proposed costs.
- The more you need a creative and specialized response in proposals, the greater the selection emphasis on vendors' technical quality.

Side 2. Vendor Proposal Composition

Tell them how to respond in order to convince you they can do it! Give vendors instructions on how to do this.

- What they must tell you to convince you to select them:
 - Their qualifications, experience, capacity, etc.
 - Their understanding of YOUR need, of the work.
 - Their approach/technique/supply options, etc.

- What documentation to provide.

- How to present it, organize it.

- When and where to send proposals/bids/quotes.

Side 3. Scoring

- Emphasis on what is most important in vendors' technical qualifications and plans.
- Weighting technical criteria.
- Consider relative importance of technical quality and cost.
- Criteria and selection process must be included in the published RFP.

Weigh the Importance: Technical Quality vs. Cost



General ODJFS Document Sequence

- General information on program & needs
- Information on type of vendor we want
- Scope of work & deliverables
- Legal stuff & Procedural stuff
- Proposal/contents & compositions
- Scoring & Selection

Clarification Opportunity?

Bidders' Conference or Anonymous Q&A?

- Decide if needed and useful
- No personal responses to questions
- The Q&A is published or provided
- Agency's FINAL, OFFICIAL answers to be provided to all vendors simultaneously
- Allow enough time for vendors to consider the answers in preparation of their proposals

On that Legal Stuff:

- Interested vendor behavior and ethics
- Notices of legal requirements on selected vendors
- Provisions regarding any Federal funding sources
- **Part of contract administration system**

(Note: Some legal stuff in the ODJFS RFP model may only be applicable to state level, not county level)

Proposal Review & Vendor Selection

- Composition of Proposal Review Team (PRT)
- Team members' availability start-to-finish
- PRT follows RFP-set standards for proposal review
- Individual, thorough review of all proposals
- Meaningful contribution to group efforts
- **Consensus Scoring**
- PRT Disclosure – NO CONFLICTS OF INTEREST

Consensus Scoring

- Encourages thorough consideration and conversation of Proposals
- Not based on averaging of scores
- Full agreement among team members

Vendor Selection Approval

- Selection Summary Document
- Identifies recommended vendor
- Identifies process used, dates of procurement steps, scoring details, costs, anomalies
- Explains recommendation to Director so that he/she can approve or seek more information
- Serves as 'executive summary' & as historical record of procurement

Vendor Selection Approval

Letters/Official Notices to responding vendors:

- Inform all responding vendors if they are awarded or not
- We obtain Director's signature
- Send them out (date is important)
- Protest period begins

The Protest Period



Federal Law
requires inclusion
of a protest
process

Documentation and Records Retention

- Legally supportable.
- Paper trail.
- Records Retention Requirements
& Policies
- Public records.

Why the hassle?

Compliance

Competition

Stewardship

No impropriety

We are all Tax Payers!

Contact us:

ODJFS/OLAS Main Telephone Line: 614-728-5693

OLAS web site: <http://jfs.ohio.gov/oca/>

Procurement List web site:
<http://jfs.ohio.gov/RFP/>

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OLAS

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**County Agency Requests for Waivers
from Competitive Selection are reviewed here.**

See ODJFS FAPL #2, dated Dec. 6, 2006