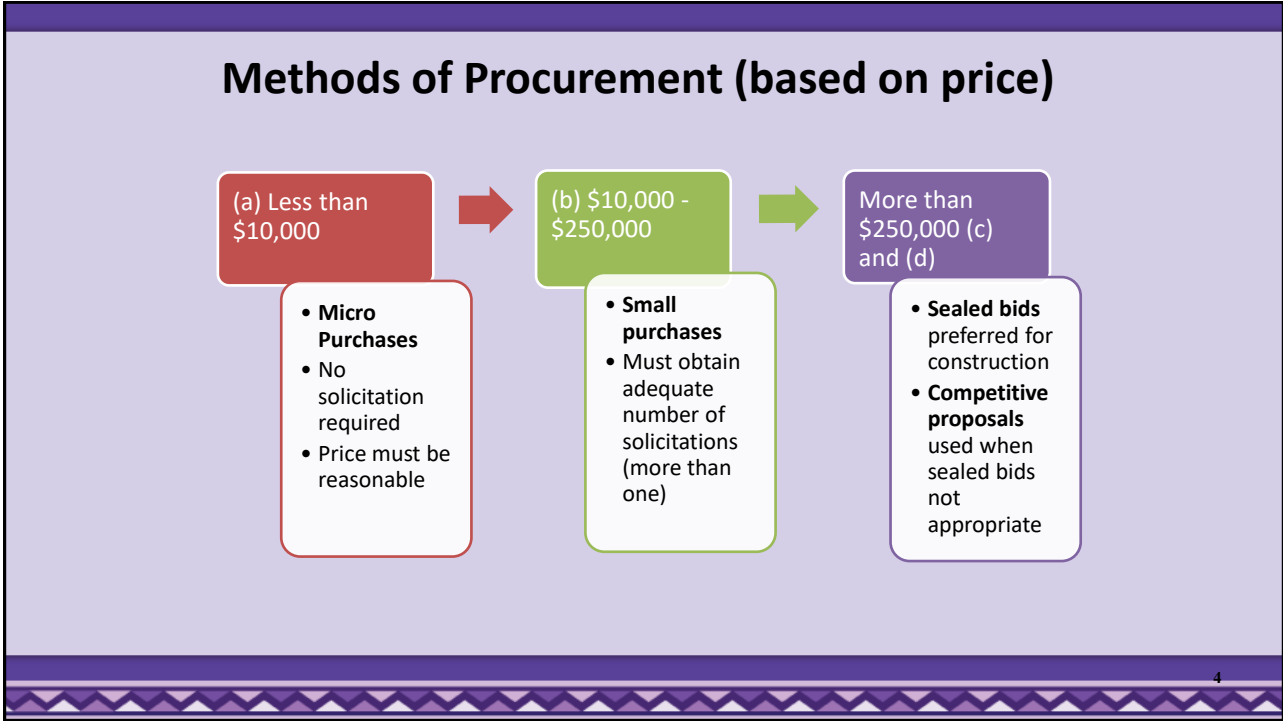
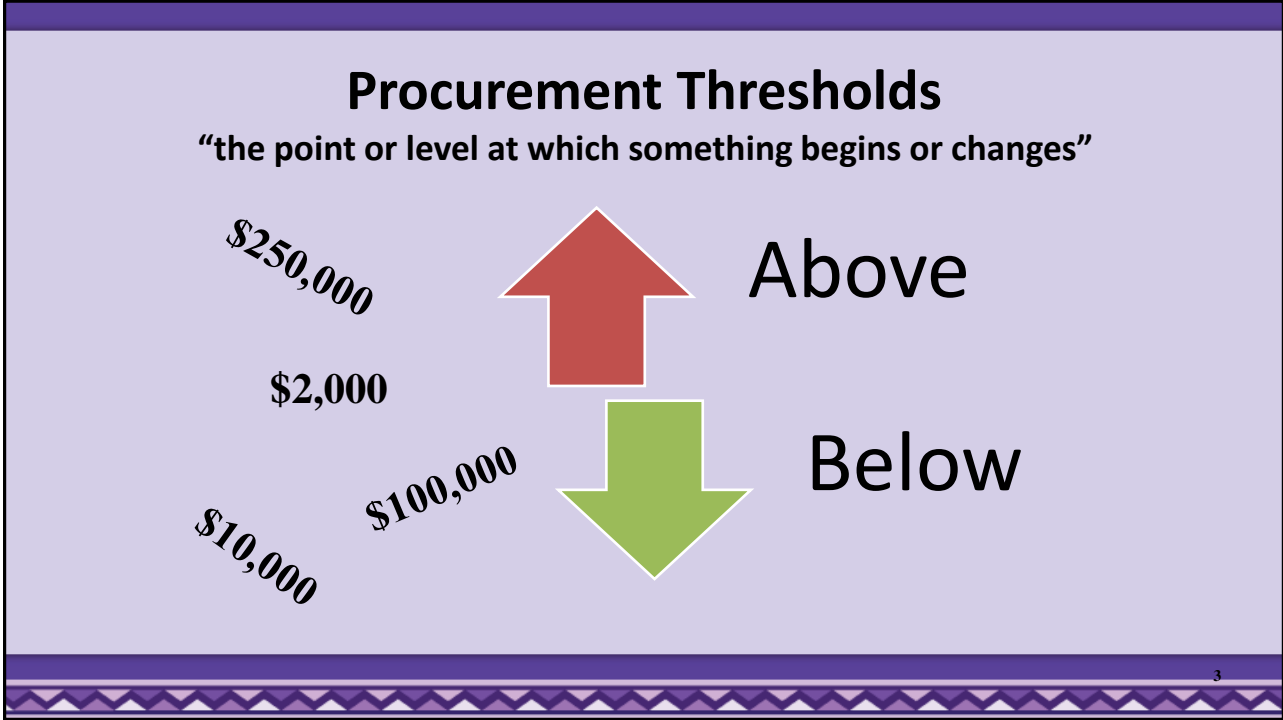


MODULE 3

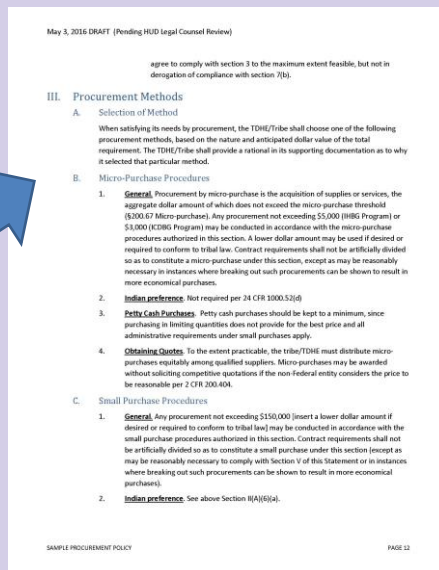
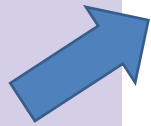
METHODS OF PROCUREMENT

Methods of Procurement (2CFR 200.320)





Procurement Method Requirements in your Policy



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§ 200.320 Methods of Procurement

- **Micro-purchases** – if price is considered reasonable, no competitive solicitation required if price does not exceed:
 - \$2,000 for procurement subject to Davis-Bacon Act for construction services
 - \$10,000 for all other procurement using federal funds
- **Small purchases** – not more than the Simplified Acquisition Threshold, currently set at \$250,000

§ 200.320 cont'd Methods of Procurement



- Competitive Sealed bids: Purchases over \$250,000 (formal advertising)
- Competitive proposals: Purchases over \$250,000 for services (Request For Proposals)
- Non-competitive proposals: **change – must request in writing if** seeking permission from Awarding Agency

Micro Purchase Threshold (2CFR 200.67)

- ***Micro-purchase*** means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold.
- Micro-purchase procedures comprise a subset of a non-Federal entity's small purchase procedures. The non-Federal entity uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost.
- The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions).
- It is \$10,000 currently, but this threshold is periodically adjusted for inflation.

Micro Purchases: 2 CFR 200.320(a)

- **Micro-purchases** – if price is considered reasonable, no competitive solicitation required if price does not exceed:
 - \$2,000 for procurement subject to Davis-Bacon Act
 - \$10,000 for all other procurement using federal funds



Micro-Purchases (include in Policy)

- Applies to all purchases below established threshold when a reasonable cost is available
- Documented with an authorized purchase order or other formal method
- Purchases cannot be broken into smaller transactions to meet the Micro-Purchase threshold
- To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers

Simplified Acquisition Threshold (2CFR 200.88)

- *Simplified acquisition threshold* means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods.
- Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold.
- The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908.
- As of this date, the simplified acquisition threshold is \$250,000, but this threshold is periodically adjusted for inflation.

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Small Purchase Method

Optional method available when procurement is less than the Simplified Acquisition Threshold



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Small Purchase Method

Can Be Used to Procure:

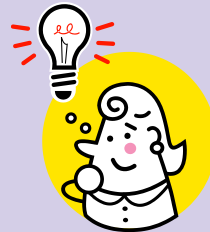
- Office supplies
- Vehicles
- Rehabilitation Contractors
- Professional Services
- Equipment



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Principles

- Must be competitive
- Indian Preference applies
- Apply along with either bids / quotes or proposal / RFP methods
- NAHASDA permits when purchase amount is under \$250,000
- Establish your threshold in Procurement Policy



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Key Elements

- No public advertising
- Need to have an adequate number of qualified bidders / proposers
- At a minimum, use a written checklist in solicitation so each bidder has the same information



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Key Elements

- Can do by phone / fax /website/ e-mail/ or in person
- If solicitation is conducted by phone, questions must be uniform and consistent for all potential bidders
- Cannot divide large contracts to award multiple small contracts
- Any lack of competition requires HUD's written approval based on 24 CFR 1000.52

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Award and Contract



- Award and Contract:
 - Only to responsive and responsible bidder
 - Reasonable price
 - May not be the lowest bidder
- Use appropriate contract forms and methods after obtaining legal advice

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COMPETITIVE SEALED-BID METHOD

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Sealed Bids

What are they?

- Contractors submit their bid amounts / quotes and confirm compliance with specifications
- Price is “sole factor” and is a fixed amount
- Award to responsive and responsible bidder with lowest bid after preferences applied
- Apply preferences (when feasible)

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Sealed Bids

Can Be Used to Procure:

- Materials
- Equipment
- Building contractors



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Sealed Bid Method

- Also called bid letting, Invitation for bids, solicitation of quotes
- Preferred method for conventional construction contracts
- Specifications and invitation are very important
- Publicly advertised (unless small purchase or cooperative purchasing is used)



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Sealed Bids: Prequalification

- Try to pre-qualify contractors for Indian preference
- Data must be maintained and periodically updated to reflect changes
- Check list of debarred/suspended contractors (www.sam.gov)

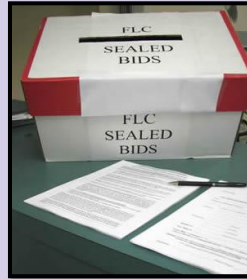


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Sealed Bids

For Construction, Use a Project Manual

- “Front End” Documents
 - Invitation
 - Bid Forms
 - Special Conditions
 - Contract Form
 - General Conditions
- Technical Specifications
- Plans and Drawings



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Invitation For Sealed-Bids Solicitation

- Must be publicly advertised
- Can also be personally solicited
- Seek as many bidders as you can
- Can amend or cancel by addendum
- Can limit to list of pre-qualified bidders

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Opening Sealed-Bids

- Only at a designated time and place
- Bids are sealed and opened publicly
- More formal process for construction projects
- Read bid amounts out loud
- Hold all bids under advisement / no decision
- Can extend opening by addendum



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Responsive and Responsible...

Bidder, proposer, or vendor has the **capacity and capability** to perform the work and/or provide the goods properly and on time.



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COMPETITIVE PROPOSALS METHOD

Competitive Proposals

- Used to procure goods and services when price is not the only factor (e.g., professional services)
- Proposals include a list of evaluation factors and their relative importance (e.g., points scale)
- Solicitation is advertising the Request for Proposals (RFP)

Competitive Proposals

Can Be Used to Procure (examples):

- Consultants
- Banking Services
- Architects
- Accountants
- Attorneys
- Developers
- Computer systems



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Competitive Proposals

- Specifications may not be fully prescribed
- Turnkey development / construction
- Acquisition of pre-built housing



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Competitive Proposals

Comparing

Jonathan Apples to McIntosh Apples



NOT Jonathan Apples to Jonathan Apples

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Competitive Proposals

Price is NOT the Only Factor!

NAHASDA allows price not to be a factor in certain architect/engineering contracts (2 CFR 200.320(d)(5)) – Qualifications Based Selection (QBS) is used and price is negotiated for highest ranked firm until firm price is reached



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Solicitation of Proposals

- Advertised publicly
- Commonly fewer specifications
- Often, but not always, includes contract form
- Selection criteria with points scale
- Incorporate applicable preferences



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Using Point System

- Everything (except certain preferences) has a range of possible points to a maximum number (typically 100 points)
- Use a panel of knowledgeable evaluators
- Individual and independent evaluations recommended
- Verify and evaluate preferences



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Sample Proposal Criteria For Non-A/E Services (with price as a Factor)

- 1. Knowledge and experience of financial and accounting standards for Indian housing programs including, but not limited to, 24 CFR part 1000.26, 2 CFR part 200 subpart E, and HUD PIH Notice 2000-18 "Accounting for Program Income Under NAHASDA", and generally accepted government accounting practices.....**Up to 25 pts.**
- 2. Prior experience in Indian housing programs.....**Up to 20 pts.**
- 3. Evaluation of performance by existing and former clients (including evaluation from advertising TDHE if applicant has previously worked for the TDHE).....**Up to 15 pts.**
- 4. Fees charged (including both the rates charged and the efficiency of the accountant or firm based on prior experience).....**Up to 15 pts.**
- 5. Evaluation of Indian Preference in Training, Employment and Contracting..**Up to 10 pts.**
- 6. Indian Preference for Indian Owned Firms.....**0 or 15 pts.**

Maximum 100 pts

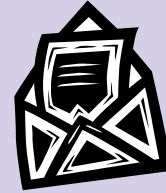
Sample QBS Proposal Criteria For A/E Firms (no price factor):

- 1. Specialized design and technical competence of the firm as demonstrated in previous similar projects.....**Up to 25 pts.**
- 2. Qualifications of project team and experience of personnel to undertake proposed scope of work.....**Up to 20 pts.**
- 3. Capacity and capability of the firm to perform the work including special services, within time limitations established for the project.....**Up to 15 pts.**
- 4. Past record of performance with respect to factors, including project cost control, work quality and ability to meet schedules.....**Up to 15 pts.**
- 5. Proximity to and familiarity of proposed project and work plan for delivery of services.....**Up to 10 pts.**
- 6. Indian Preference for Indian Owned Firms.....**0 or 15 pts.**

Maximum 100 pts

Opening and Evaluating Proposals

- Best to open all at the same time
- No public opening
- Assess each proposal
- Determine who is responsive and responsible
- Evaluate, often using point scale



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Award of Contract

- Award to responsive and responsible proposer with the highest number of points (whose proposal is most advantageous to Recipient based on price AND criteria published in solicitation)



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§ 200.319: Competition

Contractors who are involved in drafting specs, statements of work, RFP'S or IFB's must be excluded

- No overly restrictive requirements allowed
- No state, local or tribal geographical preferences unless mandated or encouraged by statute
- Written procedures required
- Prequalified lists must be kept current



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NON-COMPETITIVE METHOD

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§ 200.320 (f): Noncompetitive Proposals

- 1) The item is available only from a single source;
- 2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- 3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals **in response to a written request from the non-Federal entity;**
or
- 4) After solicitation of a number of sources, competition is determined inadequate.

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Non-Competitive Method

Can Be Used...

- Only when other methods are infeasible
- Only in extraordinary situations
- Often requires special approval from HUD
- MUST document reason for use

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Non-Competitive Method

- Negotiate with a single source
- Provide preferences when feasible
- Cost analysis is required



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HUD Approval

What HUD May Want When its Approval is Required:

- Cost analysis
- May request to review all procurement materials prior to award of a contract
- Written reasons why award cannot be made through competition



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Procurement Procedures

Start Procurement

1a. Determine requirements, prepare advance procurement plan (use cooperative purchasing methods, if available).

1b. Public exigency or emergency may require jump to noncompetitive proposals.

2. Prequalification of potential bidders/proposers for Indian preference.

3. Prepare a) specifications, b) statement of work, and c) independent cost estimate. For construction projects, also prepare project manual with front-end documents and drawings.

4. Budget funds and send to the Contracting Officer for review and concurrence, if applicable.

5a. IF below small purchase limit, make purchase using informal phone/fax/mail solicitation.

5b. IF above small purchase limit, determine method of procurement (sealed bids or competitive proposals).

6. IF competitive proposals, prepare evaluation criteria and points scale.

7. Issue solicitation, including Indian preference applications.

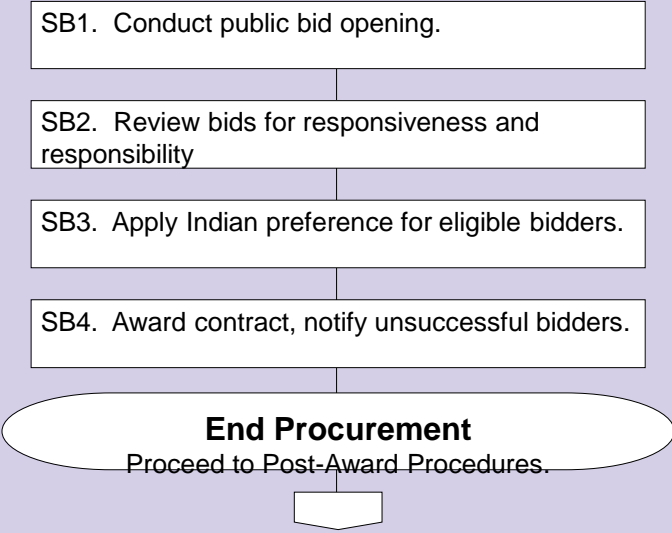
8. Hold pre-bid/proposal conference, if needed.

9. Make determinations on Indian preference applications.

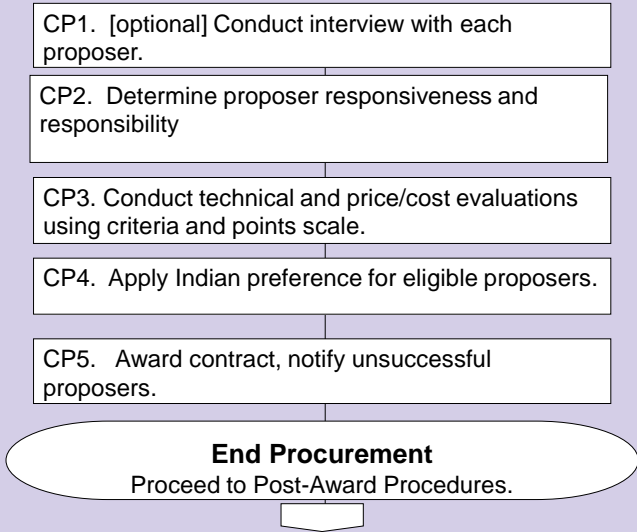
10a. Bids or proposals received. For sealed bids, proceed to Sealed Bid Procedures. For competitive proposals, proceed to Competitive Proposals Procedures.

10b. IF only one bid or proposal is received, determine if you will re-advertise (back to step 7) or use Non-Competitive Proposal Procedures.

Sealed Bid Procedures



Competitive Proposals Procedures



Non-Competitive Proposals Procedures

NC1. Written determination that award of contract is infeasible by any other procurement method and one of the following also applies:

- Item is available only from a single source
- Public exigency/emergency
- HUD authorizes (may require pre-award review)
- Competition determined inadequate after solicitation of several sources

NC2. Determine offeror responsiveness and responsibility.

NC3. Analyze technical proposal, if any.

NC4. Conduct cost analysis.

NC5. Conduct negotiations.

NC6. Receive and evaluate revised proposal, if any.

NC7. Award contract

End Procurement

Proceed to Post-Award Procedures.

Procurement Exercise: Competition

To help fund the housing development project, the Elk Mountain Tribe is considering applying for the Indian Community Development Block Grant program. To do this, they need to hire a consultant to help them with the ICDBG application. The Tribal Administrator suggests contacting Wilson Consultants to draft an RFP because they provided assistance writing their ICDBG application a few years ago.

- Is this allowable?
- Under what circumstances would it not be allowable?

Exercise: What Method of Procurement would you use?

1. Purchase of printer; estimated cost \$2,800
2. Construction of duplex; estimated cost \$425,000
3. Purchase of vehicle; estimated cost \$22,900
4. Procurement of audit services
5. Replacement of furnace; estimated cost \$12,300
6. Modernization of three homes; est. cost \$225,000
7. Purchase of used backhoe; estimated cost \$5,000

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Q & A Session

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