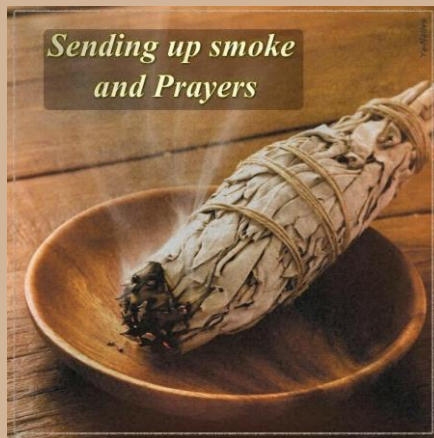




Procurement & Contract Administration April 21-22, 2021 Day 2



WELCOME & GOOD MORNING!



Cheryl A. Causley and
Associates Housing
Consulting &
Management Services

cherylacausley@hotmail.com

(906) 440-1007

Skype:cherylacausley61



Brought to you courtesy of the National
American Indian Housing Council and
the Office of Native American Programs



Getting to know The Instructor

Greetings My Name is Cheryl,

My Anishinaabe name is Red Bird Woman

I am Loon Clan and I come from the Place of the Pike, Bay Mills

Bay Mills is a Reservation located at the Top of Michigan and our waters Border Canada and we are Ojibwe/Chippewa

I was a Director of Housing for my Tribe for over 28 Years

I was honored to serve as the Chairwoman of the NAIHC for Four years and on the Board of Directors as Vice Chair & Secretary for an additional 12 years

I also served as The Chairwoman of the Great Lakes Indian Housing Association for 7 years

I am currently serving on the National Congress of Australia's first peoples International Strategic Advice & Support Group currently planning the World Indigenous Housing Conference scheduled to be held on the Gold Coast of Australia



Getting to Know You Introductions

What is your name and your position within your Housing Organization

What is the length of time you have been involved in Indian Housing?

What is your role in Procurement?

What do you hope to learn?



Agenda Day 2

11:00 -11:15 A.M.

11:15 – 4:00 P.M.

April 22, 2021

ZOOM SIGN IN & ROOM ENTRY

Welcome Back, Introductions.

Competitive Sealed Bid Method

Competitive Proposals Method

Non- Competitive Method

Procurement Procedures

Specifications & Statements of Work

Indian Preference Requirements

Cash Management & Internal Controls

Conflict of Interest in the Administration of Contracts

Quotation Evaluations

Procurement Authority & Administration of the Procurement Function

Contracting Officer Signature & Obligation of Funds

1:00 – 2:00 P.M.

LUNCH BREAK

Appendix

- #1 eCFR part 200
- #2 NAHASDA Statute
- #3 Part 1000 NAHASDA REGULATIONS
- #4 NAHASDA Procurement Glossary
- #5 Indian Preference Determination Letter
- #6 Indian Preference Qualification Application
- #7 Indian Preference in Employment & Contracting
- #8 Federal Micro Purchase Threshold 2019-03
- #9 NAHASDA Related Procurement Regulations
- #10 2 CFR 200 Transitional Notice
- #11 Environmental Review Process



Appendix

- #13 Procurement Checklist
- #14 RFQ Lump Sum Fax Mail
- #15 RFP Fax or Mail
- #16 RFP Manufactured Home
- #17 RFP Modular Home
- #18 Sample Procurement Policy
- #19 Example Ethics Policy
- #20 Procurement & Post Award Flowchart
- #21 Owner Contractor Construction Agreement
- #22 Sample Procurement Contract File Arrangement



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TRAINING OBJECTIVES & OVERVIEW



Training Objectives

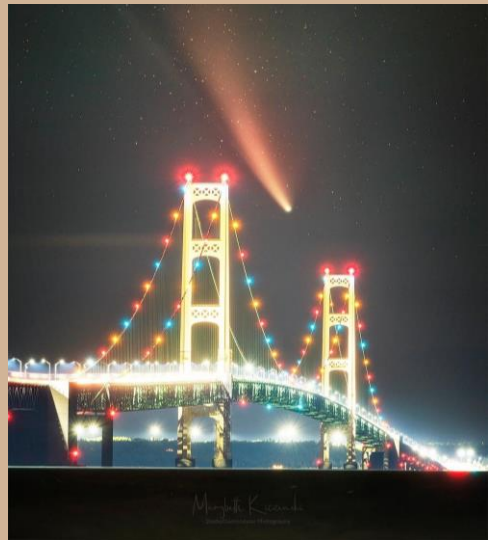
To assist you as NAHASDA Recipients to:
EFFECTIVELY and EFFICIENTLY conduct procurement
COMPLY with requirements imposed by HUD and other funding sources



Overview.....

ALERT!!!

In this class there are likely considerable differences in procurement experience expertise, and knowledge. So, please bear with me.



Questions

Please jot your questions down during the presentation and we will address at the Q & A section at the end of each session.



COMPETITIVE SEALED BID METHOD



What Is Sealed Bids

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

Apply preferences (when feasible)

Sealed Bids

Can Be Used to Procure:

Materials

Equipment

Building Contractors

Sealed Bid Method



Also called bid letting, Invitation for bids (IFB), solicitation of quotes



Preferred method for conventional construction contracts- Including Labor Cost



This is the most formal method of procurement



Specifications and invitation are very important



Publicly advertised (unless small purchase or cooperative purchasing is used)



Bids are publicly solicited from an adequate number of bidders who are given adequate time to respond

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)



What is SAM

System for Award Management (SAM)
The System for Award Management (SAM) is a Federal Government owned and operated free web site that consolidates the capabilities in Central Contractor Registration (CCR)/Fed Reg, Online Representations and Certifications Applications (ORCA) and the Excluded Parties List System (EPLS).

I dont know what happened, but this eagle is about to ask to speak to a manager.



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

Invitation For 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

Opening 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

Bidders, Proposers, and Contractors (Vendors) Must Be Both...

- Responsive and
- Responsible



Responsive...



Bidder, proposer, or vendor responding to a solicitation provides **all of the documents and information required by recipient**

Responsible...

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



COMPETITIVE PROPOSALS METHOD



Competitive Proposals



Proposals include a list of evaluation factors and their relative importance (e.g., points scale)



Used to procure goods and services when price is not the only factor



Solicitation is request for proposals

Competitive Proposals

Can Be Used to Procure:

Examples

Architects

Accountants

Attorneys

Developers

Computer systems

Consultants

Banking Services

Competitive Proposals



Specifications may not be fully prescribed

Turnkey development / construction

Acquisition of pre-built housing

Competitive Proposals

Comparing

Jonathan Apples to McIntosh Apples



NOT Jonathan Apples to Jonathan Apples

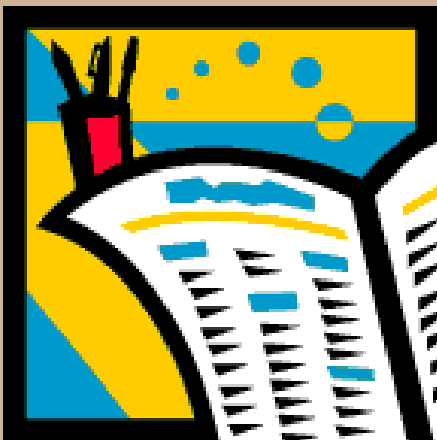
Competitive Proposals

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))



Solicitation of Proposals



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

Using Point System

Everything (except certain preferences) has a range of possible points
 Use a panel of knowledgeable evaluators
 Individual and independent evaluations are recommended
 Verify and evaluate preferences



Sample Criteria With Point Scale

- 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 Points

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

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)

§ 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

NON-COMPETITIVE METHOD



§ 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.

Non-Competitive Method Can be used...



Only in extraordinary situations



Only when other methods are infeasible



Often requires special approval from HUD



MUST document reason for use

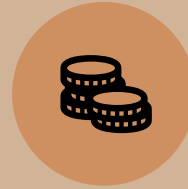
Non-Competitive Method



NEGOTIATE WITH A
SINGLE SOURCE



PROVIDE PREFERENCES
WHEN FEASIBLE



COST ANALYSIS IS
REQUIRED

HUD Approval



What HUD May Want When its Approval is Required:

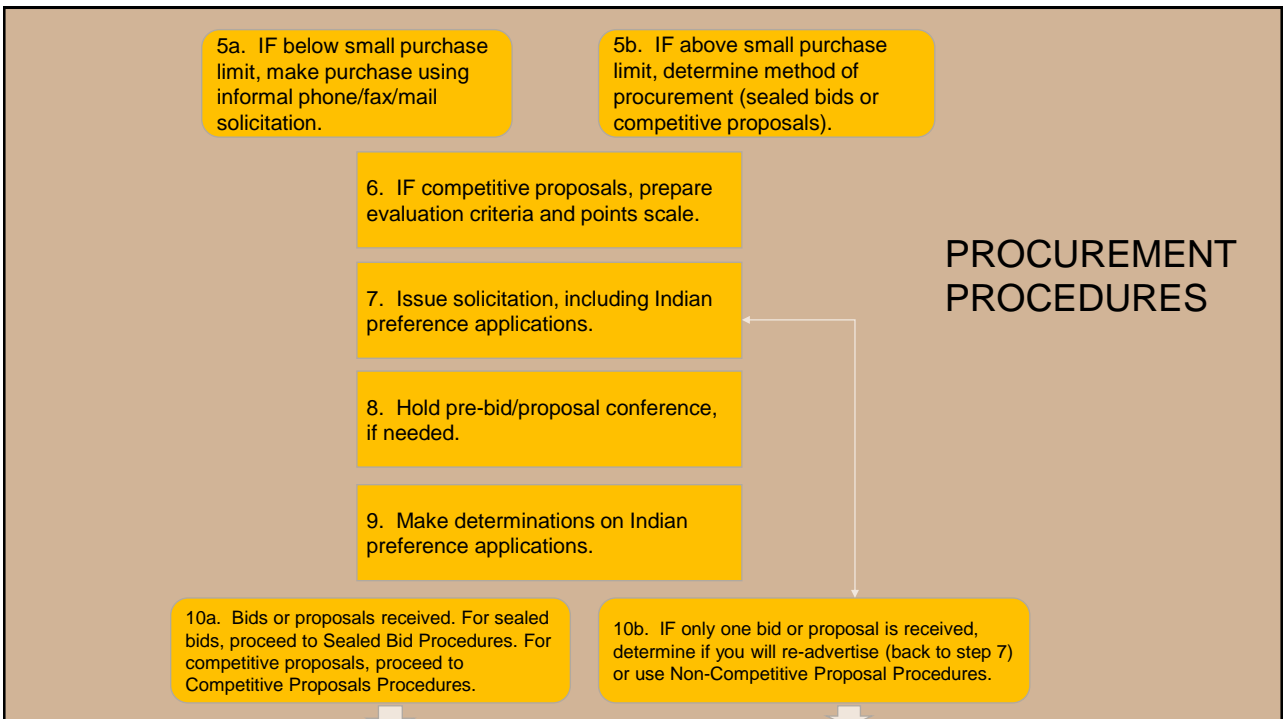
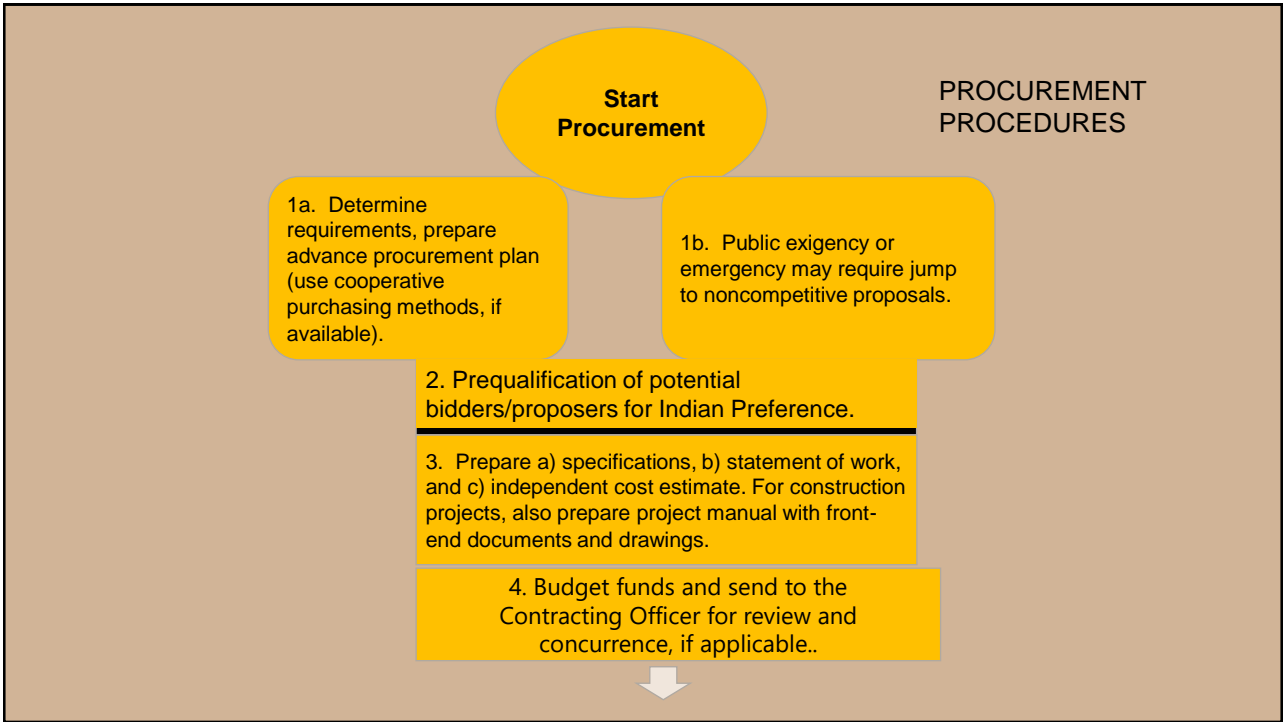
- Cost analysis
- May request to review all procurement materials prior to award of a contract
- Written reasons why award cannot be made through competition

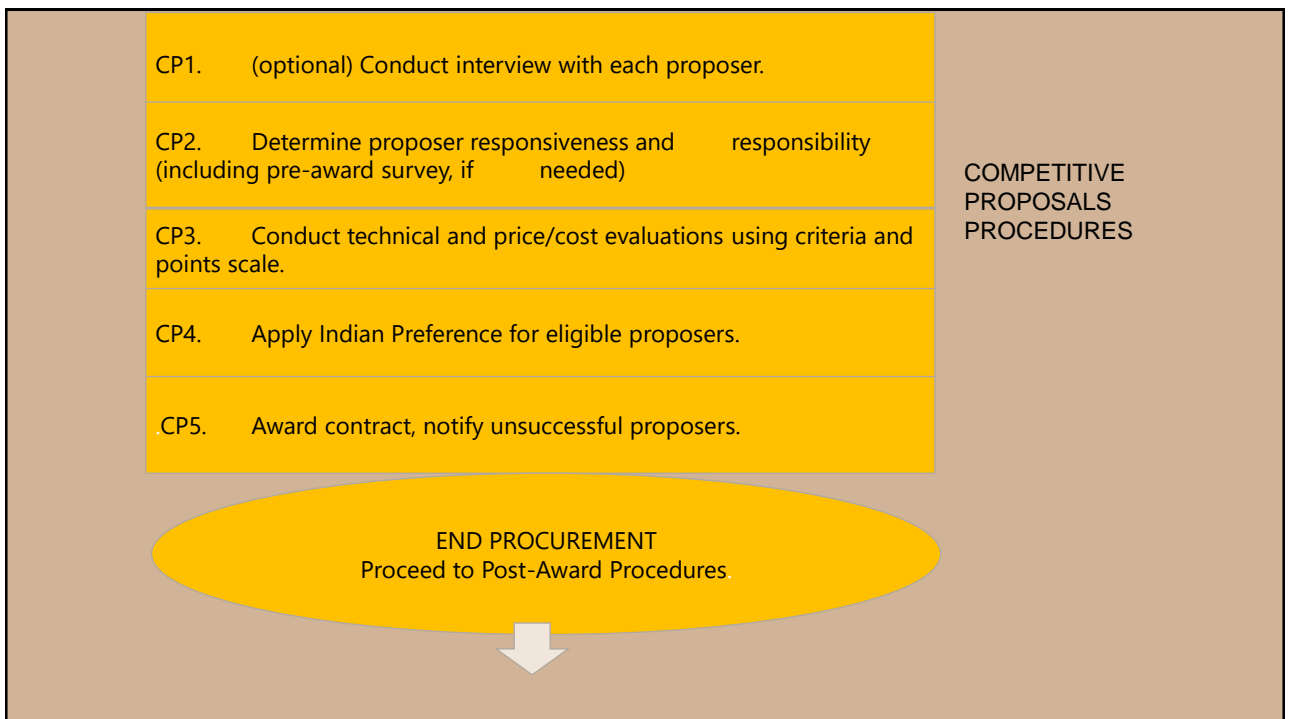
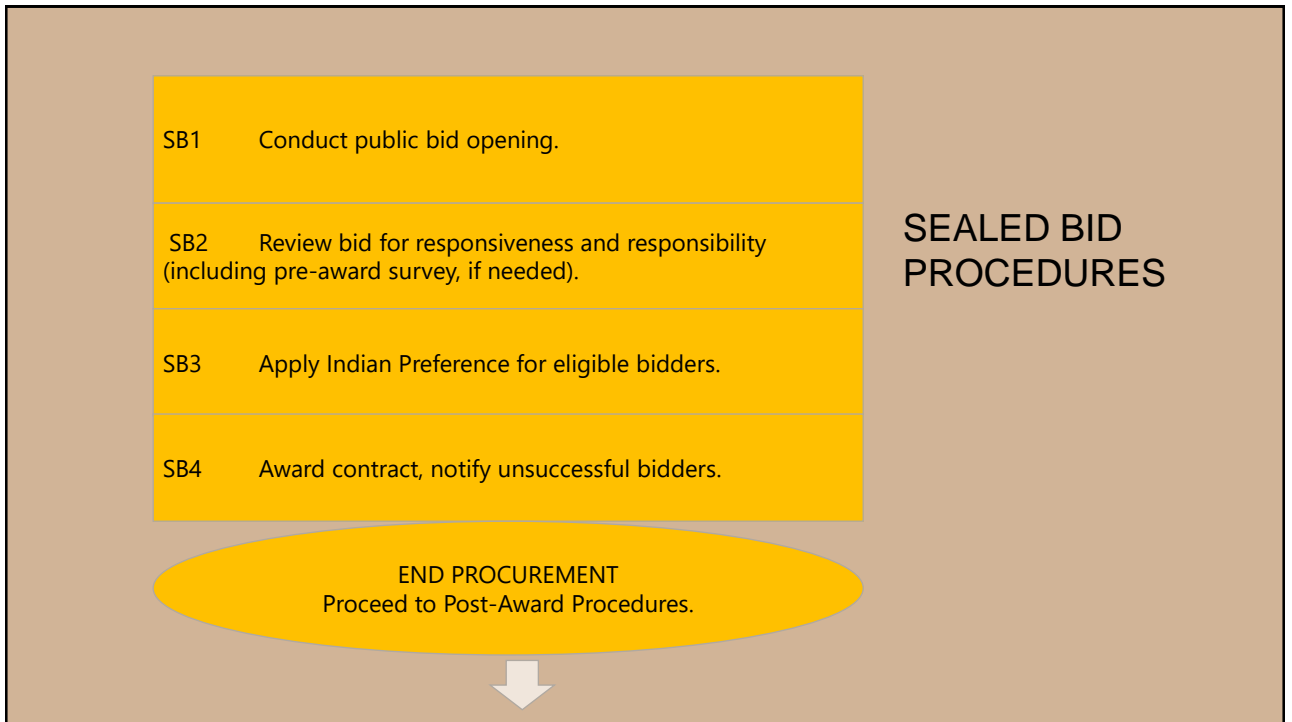
Break Time

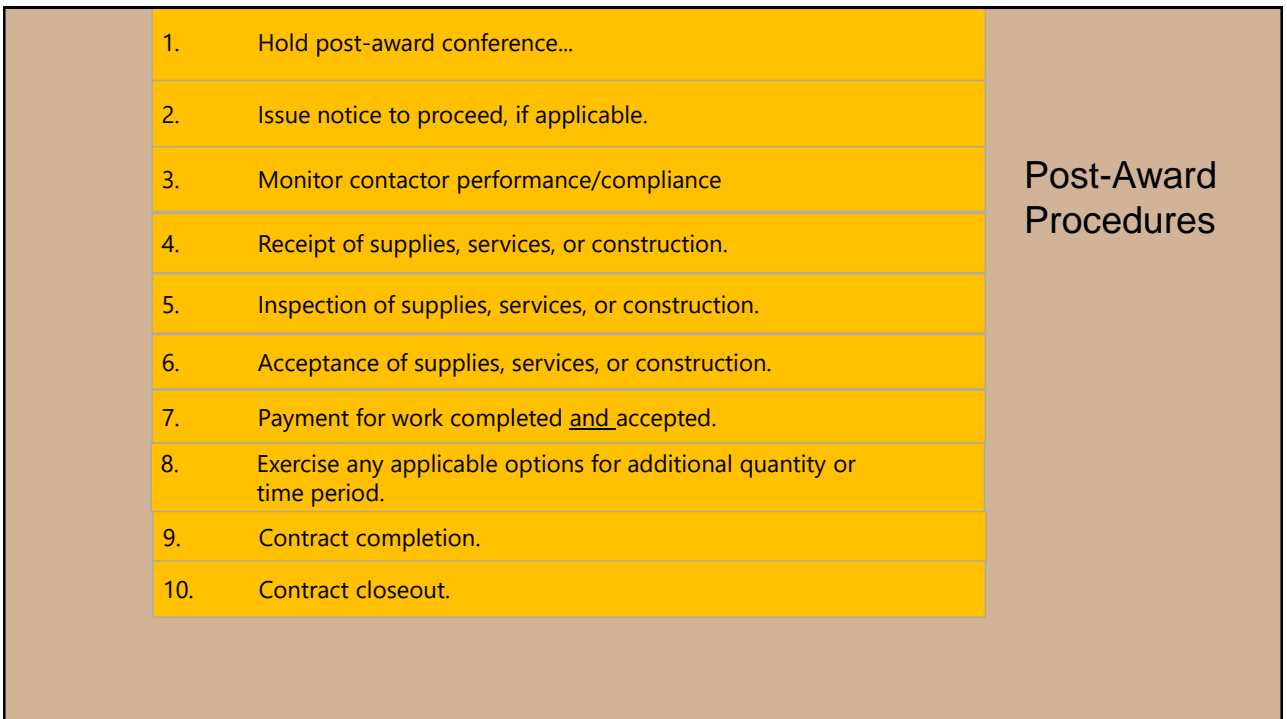
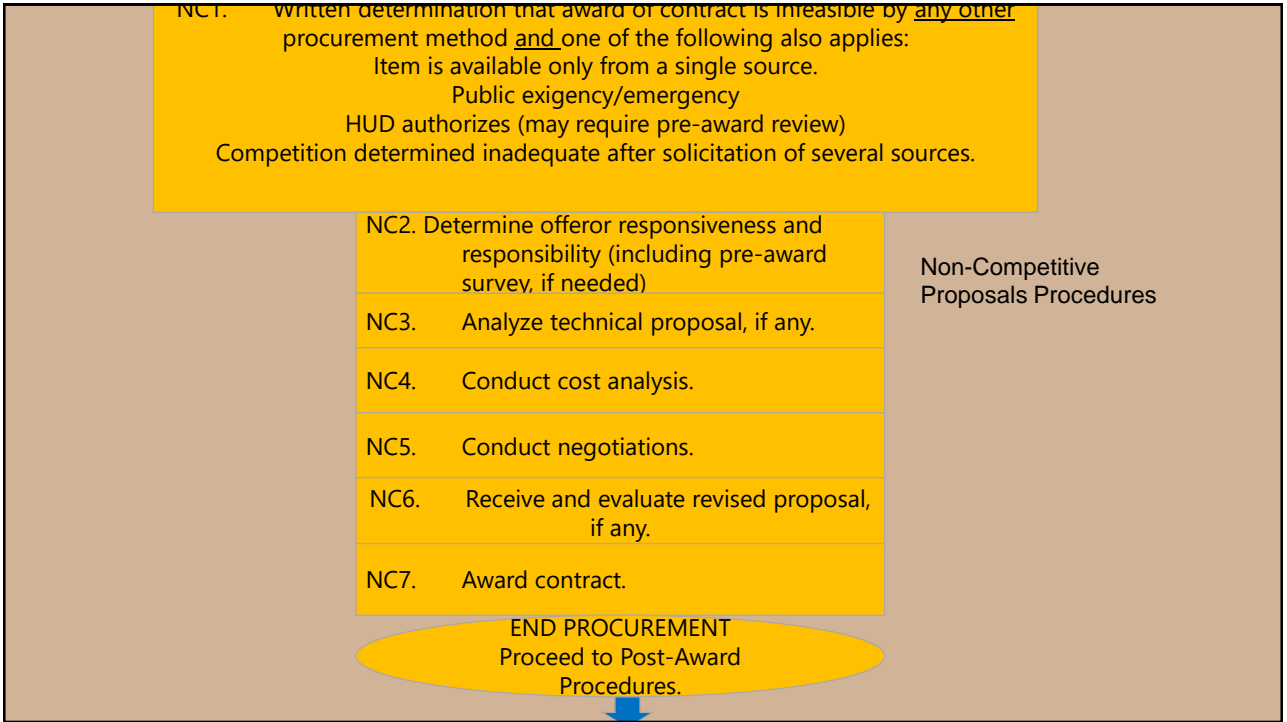


PROCUREMENT PROCEDURES









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

SPECIFICATIONS AND STATEMENTS OF WORK



SPECIFICATIONS AND STATEMENTS OF WORK

General This section of the presentation describes the development of specifications and statements (or scopes) of work, along with their uses. Properly prepared or described specifications and statements of work (1) enhance competition, and (2) clarify the relationship between the contractor and the IHA, resulting in improved contract administration.

All procurement transactions should be conducted in a manner providing for full and open competition. In compliance with this requirement, the specifications or statement of work must be designed so as not to restrict competition to one supplier.

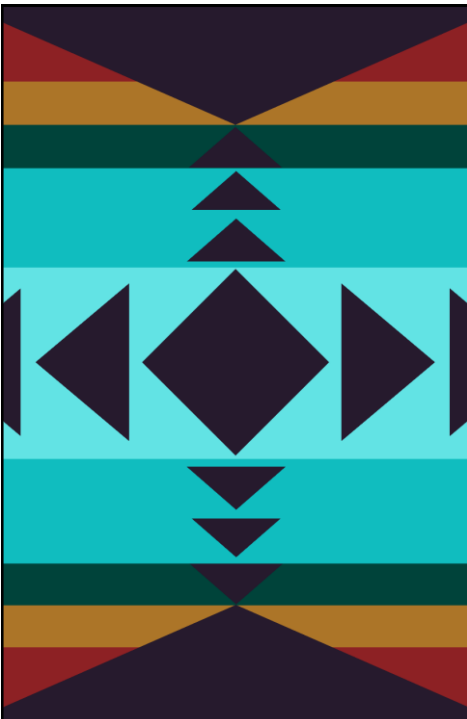
Specifications

- A. Definition.** A specification is a detailed description of materials, supplies, equipment, pre-cuts, or construction work that is used in the procurement process to tell prospective contractors precisely what the IHA desires to purchase. (A statement or scope of work is a unique type of specification generally used for the procurement of professional or management services,
- B. Specification Types.** Three general types of specifications are used in preparing contracts for equipment, supplies, or construction – functional or performance specifications, design specifications, and brand name or equal specifications. While these general types are described, it is rare to find specifications that fit completely into just one of the above categories. Most specifications contain a combination of design and performance requirements and may, include brand name or equal descriptions of components.



Specifications

- 1. Functional or Performance Specifications.** These specifications contain performance characteristics that are desired for the item or that identify how the item functions. The detailed design or exact measurements are not stated. A functional or performance specification is inherently risky. Performance specifications state the overall requirements so that each contractor may furnish its own item to meet the required performance. For example, a new boiler specification can simply call for a gas-fired hot water boiler that will produce 100,000 British Thermal Units (BTU) per hour. It is easy to imagine a gas-fired boiler that can produce 100,000 BTUs per hour, but it may also require continuous and costly maintenance.



Specifications

2. Design Specifications. Design specifications contain a description of the item desired as opposed to performance standards. Design specifications may be as detailed as needed. Depending on the nature of the item, the design specifications may contain precise measurements, tolerances, materials, product tests, quality control, and other detailed information, provided competition is not being limited to one product. The information furnished in the specification should be sufficiently detailed to ensure that all items manufactured to the specifications will be virtually the same. A detailed description of kitchen cabinets, giving dimensions, fastening details, materials, and hardware, is one example of this type of specification.

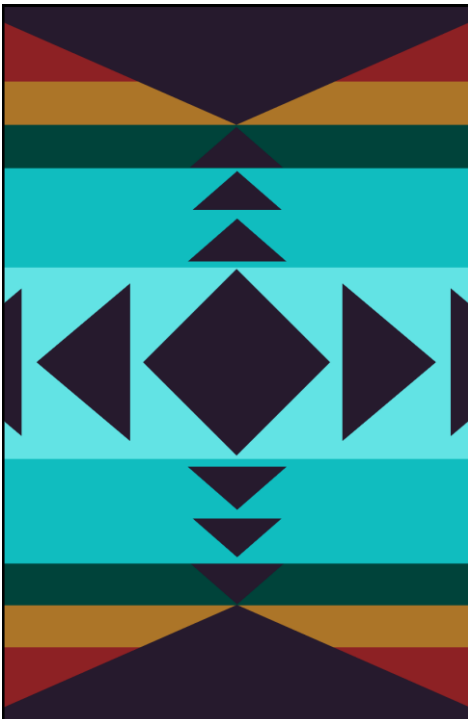


Specifications

3. Brand Name or Equal Specifications

Under this form of specification, clear and accurate product descriptions are developed. These descriptions shall not contain features that unduly restrict competition. It may be necessary to describe technical requirements for materials and equipment by referencing brand name products in order to define performance or other salient requirements. References to brand names shall be followed by the words "or equal" and a description of the item's essential characteristics so that competition is not restricted.

Specific brand names may be used only for establishing design and quality standards and only if there is no other reasonable method of designating the required quality of the item desired. When brand names or catalog numbers are used, inform the offerors that such references establish only design or quality standard; in fact, any other products that clearly and demonstrably meet the standard are also acceptable.



Specifications

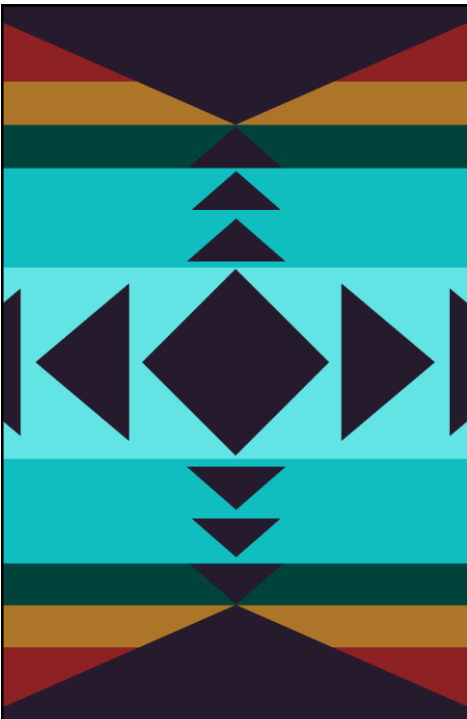
C. Standardizing Inventory. Many IHAs, for efficiency, standardize their inventory of equipment and parts. IHAs must comply with procurement standards that requires full and open competition and prohibits using specifications that unduly restrict competition. To standardize the IHA's inventory, specifications or descriptions that use brand names may be used only when accompanied by the term "**or equal.**" The specific features of the product (design, functional, or performance) that are essential in order to be considered "or equal" shall be clearly stated. In addition to the brand name product specified, any other product that meets the same technical requirements shall be given full and fair consideration.

In all cases, the IHA should give all offerors the opportunity to present reasons or data showing that their product can meet the stated requirements. Descriptions or specifications shall not be written so as to specify a particular product or feature of a product particular to one manufacturer unless that feature or product is critical to the intended use.



Specifications

D. Avoiding Manufacturers Specifications. IHAs should avoid incorporating a particular manufacturer's specification as the project specification. This may give the appearance of restricting competition and suggest that other manufacturers' products are at a disadvantage and may not be accepted. If the IHA specifies a brand name cabinet, the essential key elements or features of the product should be stated. For example, if specifying kitchen cabinets with the key features of solid wood doors and plywood frames, then any available brands and styles of cabinets will meet the key criteria. Therefore, all of these brands should be acceptable.



Specifications

E. Contractor-Developed Specifications

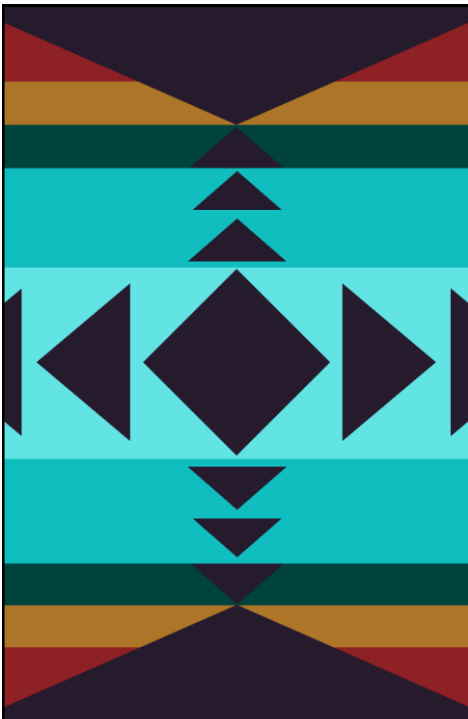
In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors funded to develop or draft specifications, requirements, statements of work, invitations for bid, or requests for proposals shall be excluded from competing in the procurement. The only exception to this rule is if, prior to the solicitation, all respondents to solicitations are provided with materials and information made available to the contractor involved in matters pertinent to the solicitation.



Statement of Work (SOW)

A statement or scope of work SOW is normally used for contracts for services, such as accounting or payroll services, energy audits, consultant, legal or A/E services, as well as non-professional services such as maintenance and grounds keeping.

A. Purpose and Functions of the SOW. The primary purpose of a SOW is to provide a basis for mutual understanding between the IHA's Contracting Officer and the offeror and subsequent contractor of the IHA's requirements.



Statement of Work (SOW)

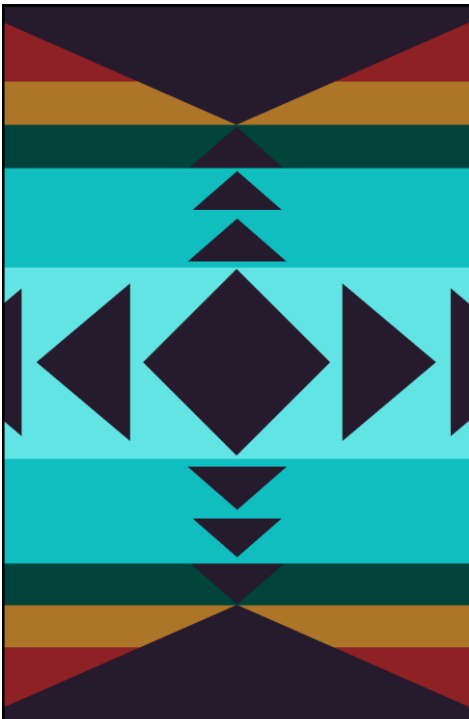
1. The adequacy and detail of the SOW may affect the number of offerors who are willing and able to respond. If the SOW is not specific enough, some may not respond, either because of uncertainty about the risks involved or because they may not understand the relationship of the requirement to their own particular capabilities.
2. The clarity and specific detail of the requirements presented in the SOW directly relate to the amount of the offer and the quality of the proposals submitted.
3. Under the competitive proposal's method, the SOW establishes conclusive baseline tasks that are the foundation for sound evaluation criteria. The SOW plays a significant role in the proposal evaluation and contractor selection process.
4. The SOW also becomes the standard for measuring contractor performance. When a question arises over an apparent increase in the scope of the work to be performed, the SOW is the baseline document for resolving the question. Negotiation of cost and schedule modifications will be impaired, if not rendered impossible, if the SOW is not definitive in these areas. (Alternately, some solicitations may include the actual contract, which is summarized or referenced in the statement of work.)



Statement of Work (SOW)

B. Elements of the SOW. The particular issues to be addressed in a SOW will vary with the nature, purpose, size, and complexity of the work. At a minimum, every SOW should include:

1. Detailed work and task requirements;
2. End results and deliverables, including the criteria which a deliverable must meet to be considered acceptable;
3. Delivery schedules/period of performance;
4. Any reporting and compliance requirements;
5. A precise statement of the objectives;
6. Contact information for IHA contact person/contract administrator; and Other special considerations (warranties, personnel and required classifications, testing procedures, procedural safeguards, etc.).



LUNCH
1:00 To 2:00 EST

