

MODULE 3

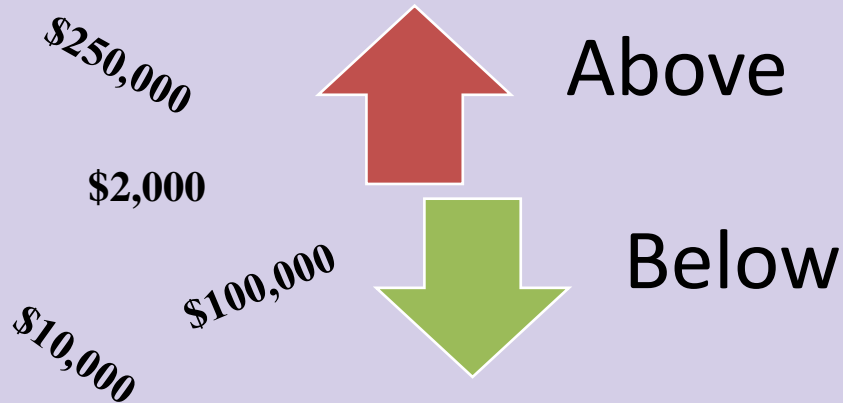
METHODS OF PROCUREMENT

Methods of Procurement (2CFR 200.320)



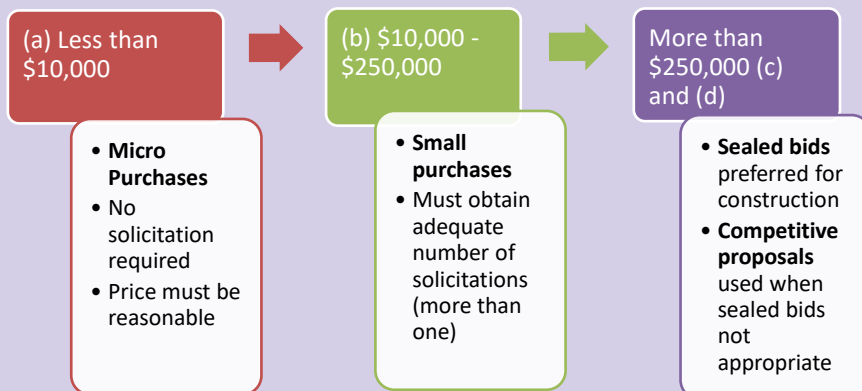
Procurement Thresholds

“the point or level at which something begins or changes”



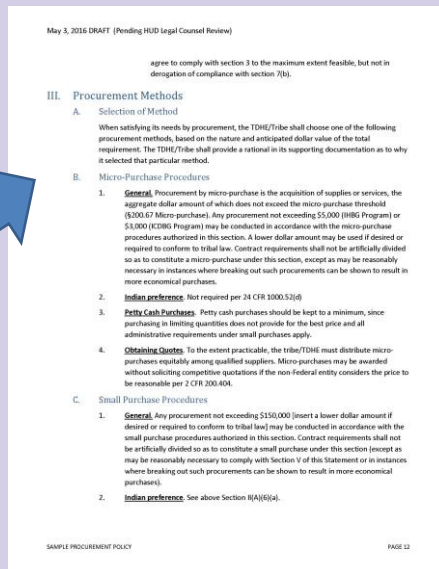
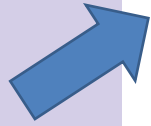
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Methods of Procurement (based on price)



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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:

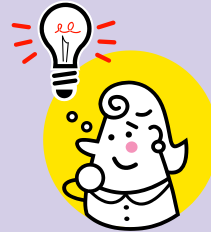
- Office supplies
- Vehicles
- Rehabilitation Contractors
- Professional Services
- Equipment



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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)

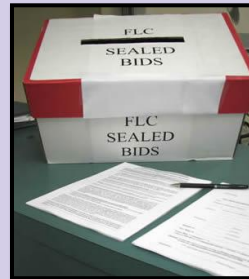


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Sealed Bids

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

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

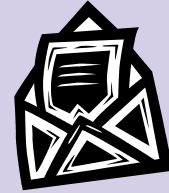
1. Specialized design and technical competence of the firm as demonstrated in previous similar projects.....**Up to 25 pts.**
2. Qualifications of project team and experience of personnel to undertake proposed scope of work.....**Up to 20 pts.**
3. Capacity and capability of the firm to perform the work 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

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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

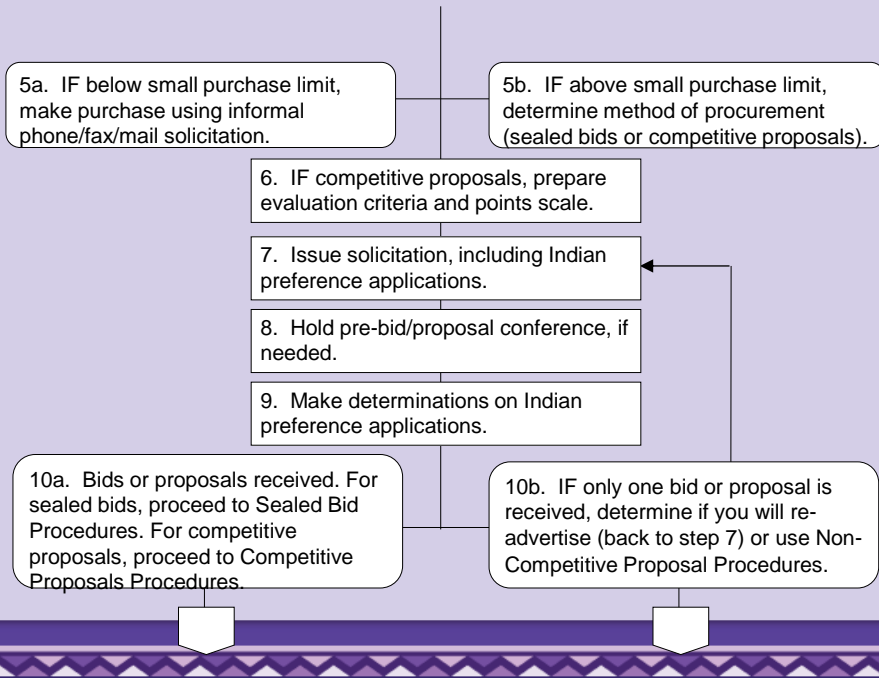
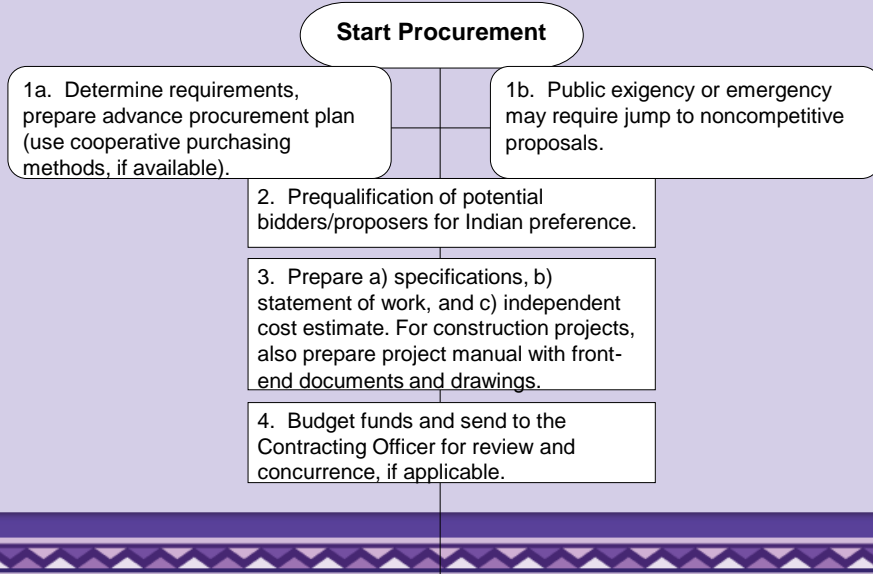
What HUD May Want When its Approval is Required:

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

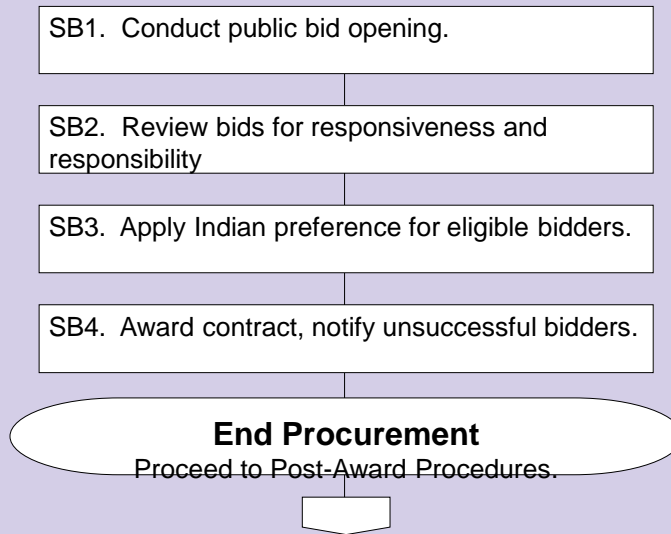


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Procurement Procedures

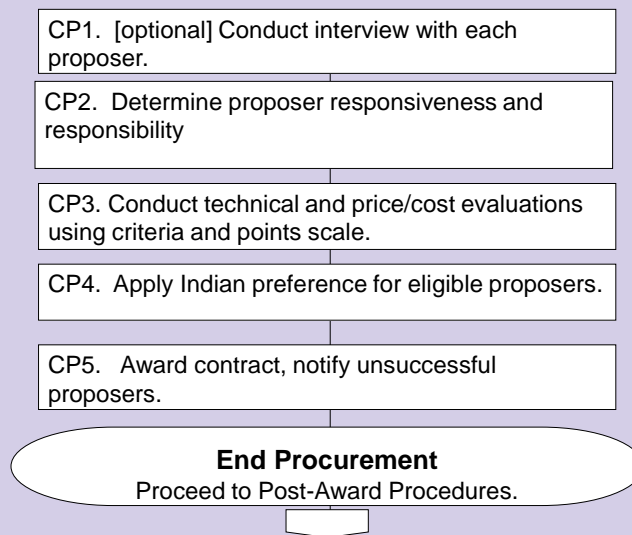


Sealed Bid Procedures



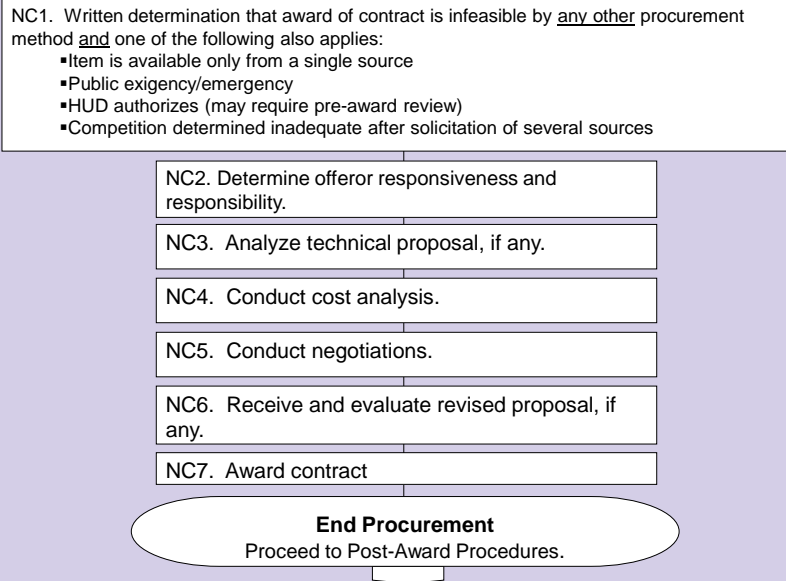
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Competitive Proposals Procedures



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Non-Competitive Proposals Procedures



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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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