

## Methods of Procurement

There are four methods by which grantees may procure goods and services with federal grant funds: 1) small purchase procedures; 2) sealed bids; 3) competitive proposals' and 4) non-competitive proposals. [\[34 CFR § 80.36\(d\)\]](#) Review the [Procurement Method Decision Tree](#) as a quick reference to determine which procurement method should be used.

### 1.) Small Purchase Procedures

Small purchase procedures are relatively simple and informal methods for obtaining services, supplies, or other property that do not cost more than the **simplified acquisition threshold fixed at 41 U.S.C. 403(11)**. This threshold is currently set by the federal law at **\$100,000**. If these procedures are used, the grantee must obtain price or rate quotations from an adequate number of qualified sources. [\[34 CFR § 80.36\(d\)\(1\)\]](#)

### 2.) Sealed Bids

This procurement method involves publicly soliciting bids and awarding a [firm-fixed-price contract \(lump sum or unit price\)](#) to the responsible bidder whose bid is the lowest in price and complies with the terms and conditions of the invitation for bids. Generally, this method is the preferred method for procuring construction if it is feasible.

#### ✓ Use sealed bids when feasible. They are feasible when:

- A complete, adequate, and realistic description of the good or service being procured is available;
- Two or more responsible bidders are willing and able to compete effectively for the business; and
- The procurement lends itself to a [firm fixed price contract](#) and the selection of the successful bidder can be made primarily on the basis of price.

#### ✓ When using sealed bids, follow the required process:

- Publicly advertise the invitation for bids;
- Solicit bids from an adequate number of known suppliers, and provide sufficient time before the date set for opening the bids;
- Publicly open all bids at the time and place stated in the invitation for bids;
- Ensure the invitation for bids includes all specifications, relevant attachments, and defines the items or services so the bidder may properly respond;
- Award a [firm-fixed-price contract](#) in writing to the lowest responsive and responsible bidder
- Consider factors such as discounts, transportation costs, and life cycle costs specified in the bidding documents when determining which bid is the lowest . Only consider payment discounts if the grantee usually takes advantage of such discounts; and
- Any or all bids may be rejected if there is a sound documented reason.

[\[34 CFR § 80.36\(d\)\(2\)\]](#)

### 3.) Procurement by Competitive (Negotiated) Proposals

This formal method is used when conditions are not appropriate for sealed bids, e.g., when the procurement decision can't be made primarily on the basis of price. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a [fixed price contract](#) or a [cost reimbursement type contract](#) is awarded. Generally, it is used when conditions are not appropriate for sealed bids.

[\[34 CFR § 80.36\(d\)\(3\)\]](#)

For the competitive proposal method of procurement, a request for proposals (RFP) is publicized and more than one source submits an offer. Various methods may be used to evaluate proposals. One way to evaluate proposals involves convening a panel of technical experts to review the proposals, and then either-

- The contract is awarded; or
- A competitive range is determined based on the technical evaluation results. Discussions or negotiations are held with the potential contractors in the competitive range, and they are given an opportunity to submit final proposals. Then a contract is awarded based on an evaluation of final proposals.

Grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services where competitors' qualifications are evaluated and the most qualified is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used to procure A/E professional services, not to purchase other types of services through A/E firms. [34 CFR § 80.36(d)(3)]

✓ **When using competitive proposals, follow the required process:**

- Publicize requests for proposals (RFPs);
- Identify in the RFP all criteria used to evaluate proposals as well as the criteria's relative importance;
- Honor any response to publicized RFPs to the maximum extent practical;
- Solicit proposals from an adequate number of qualified sources;
- Have a method to conduct technical evaluations of the proposals and for selecting awardees; and
- Make an award to the responsible proposer whose proposal is most advantageous to the program. Consider price and other factors considered.

[\[34 CFR § 80.36\(d\)\(3\)\]](#)

#### 4.) Non-Competitive Proposals (Sole Source)

This method involves soliciting a proposal from only one source, or after requesting bids or proposals from a number of sources, competition is determined to be inadequate. It may be used only when awarding a contract is not feasible under small purchase procedures, sealed bids, or competitive proposals and **one** of the following circumstances applies:

- The item is available only from a single source; or
  - There can be no delay from a competitive procurement process because of an emergency or public exigency. Public exigency exists when circumstances require urgent action, such as threats to health and safety. Poor planning does not constitute public exigency; or
  - DPI specifically authorizes noncompetitive proposals; or
  - After soliciting bids or proposals from a number of sources, competition is determined inadequate. This determination must be documented in the procurement history.
- ✓ **Perform a cost analysis for a non-competitive proposal:** A grantee must perform a cost analysis, (i.e., verifying the proposed cost data, the projections of the data if the cost data may change over time, and the evaluation of the specific elements of costs and profits), for a non-competitive proposal. [\[34 CFR § 80.36\(d\)\(4\)\]](#)