



Texas General Land Office

Community Development and Revitalization

"The GLO stands ready to help our state maximize the use of this disaster recovery funding to build back stronger and more resilient communities."

~ George P. Bush, Commissioner



Requests for Proposals (RFP)

Agenda

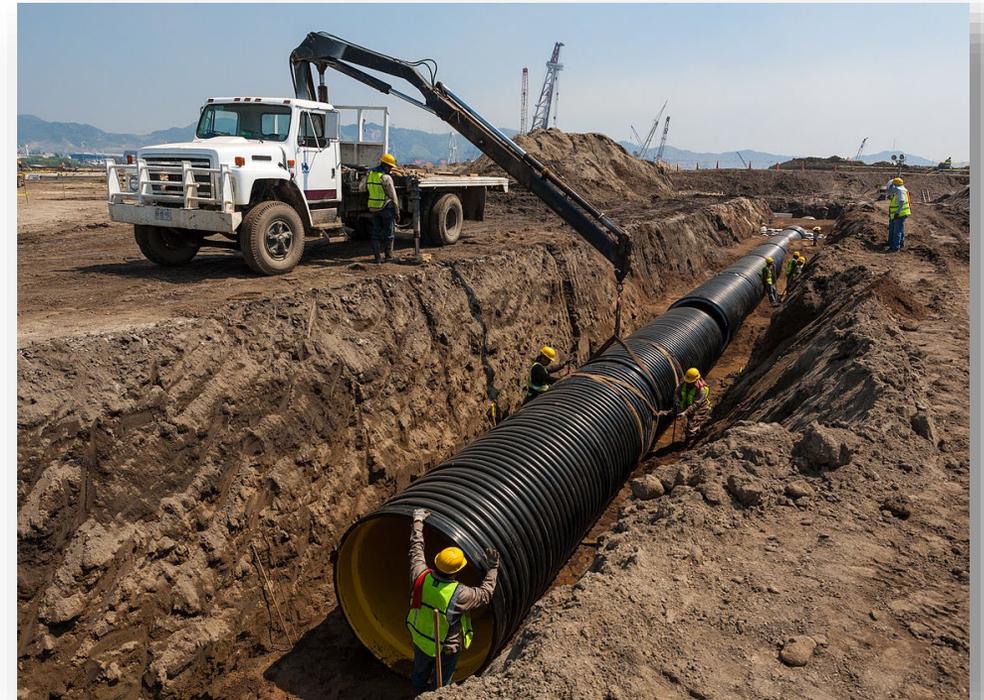
- Procurement Scenario
- Ground Rules
- RFP Elements & Requirements
- Evaluation & Selection
- Contract Award Phase
- Common Pitfalls, Concerns and Findings
- Questions & Answers



Procurement Scenario

- A community is applying to receive a \$1 million CDBG-DR grant from GLO to fund a drainage improvement project
- The grant allows up to 6% for project delivery activities and it has a 15% engineering cap tied to the construction budget

 *Project delivery percentage should be negotiated (Ex: reserving a portion to pay for part of a single audit)*





Procurement Scenario

- Cost must be **allowable** (2 CFR 200.403) – is this an eligible activity for CDBG-DR funds?
 - ✓ **Yes**, drainage improvements are an eligible CDBG-DR activity
- Cost must be **reasonable** (2 CFR 200.404) – are the costs reasonable and necessary for the activity scope?
 - ✓ **Yes**, costs align with the ICE
- Cost must be **allocable** (2 CFR 200.405) – is the cost allowed for CDBG-DR?
 - ✓ **Yes**, the need for drainage improvements ties back to the disaster impacts



Procurement Scenario

Evaluate the best method to procure Grant Management services in accordance with 2 CFR 200.318-200.326:

1. Does the Subrecipient know how long the project will take to be completed?
 - **No**, the number of projects and length of time to complete them is unknown, so the Sealed Bid Solicitation (SBS) method is not appropriate
2. Does the Subrecipient intend to review vendors' services against the best cost?
 - **Yes**, competitive proposals are used when Sealed Bids are not appropriate (2 Part 200.320(d)) and when more than one source is submitting an offer for a fixed price or cost-reimbursement type contract



Use a competitive proposal (2 CFR 200.320 (d)(1-5)): **Request for Proposals (RFP)**



Procurement Scenario

RFP Requirements

1. Publicize RFP and identify all evaluation factors and their relative importance
2. Solicit proposals from an adequate number of qualified sources
3. Consider any response to publicized RFPs to the maximum extent practical
4. Follow a written procedure to evaluate and select respondents
5. Award contract to the responsible firm whose proposal is most advantageous to the program, considering price and other factors



Planning/Pre-Release Phase

2 CFR 200 Compliance



- Follow procurement policies and procedures that reflect applicable federal, state and local laws and regulations that comply with 2 CFR 200
- Ensure that contractors perform work in accordance with the terms, conditions, and specifications of their contracts, task orders, or purchase orders
- Document the process for procurement and oversight in policies and procedures
- Maintain written standards of conduct covering conflicts of interest and governing actions of employees engaged in the selection, award and administration of contracts



Ensure procurement policies and oversight practices have the information for procurement staff to avoid costly, wasteful, and unenforceable contracts

Procurement & Contracting Ground Rules



Maintain Separation of Duties:

- Clearly define responsibilities of each position in the procurement process
- Formal system of authorization and review

Subrecipients are responsible for all procurement actions and should describe their oversight of any Grant Administrators involved in procurement



Ground Rules Cont'd.



Provide Competencies and Training:

- Review your procurement policies and procedures to ensure that they meet HUD and Office of Management and Budget (OMB) requirements
- Complete the procurement checklist and place it in the procurement file with corresponding documents
- Train subrecipient staff to perform their procurement duties and responsibilities

Ground Rules Cont'd.



Maximize Competition: look out for potential **red flags** and investigate further

- Non-competitive contracts
- Insufficient price or rate quotes from qualified sources
- Lack of ICEs or cost analyses
- Failure to rotate vendors on lower priced purchases
- Unreasonably narrow or specific qualification criteria or bid specifications
- Splitting procurement activities to circumvent formal procurement methods
- Short timeframes for responding to offers
- Insufficient number of responsive bidders
- Failure to check debarment lists and labor surplus area firms
- Lack of M/WBE Outreach
- Excessive number of small purchase contracts close to the small purchase dollar limit

Ground Rules Cont'd.



Uphold Ethics and Bar Conflicts of Interest (COI):

- Include a written code of standards in the procurement policy
- Explain what “appearances of conflicts” entails
 - Vendor or contractor donations to employee fund-raising drives
 - Event tickets, meals, or giveaway gifts to an employee-affiliated organization
 - Immediate family members, business partners, or organizations where they may be employed or seeking employment
- If there is a real or apparent COI, do not proceed before mitigating the conflict

Preparing Scope of Work



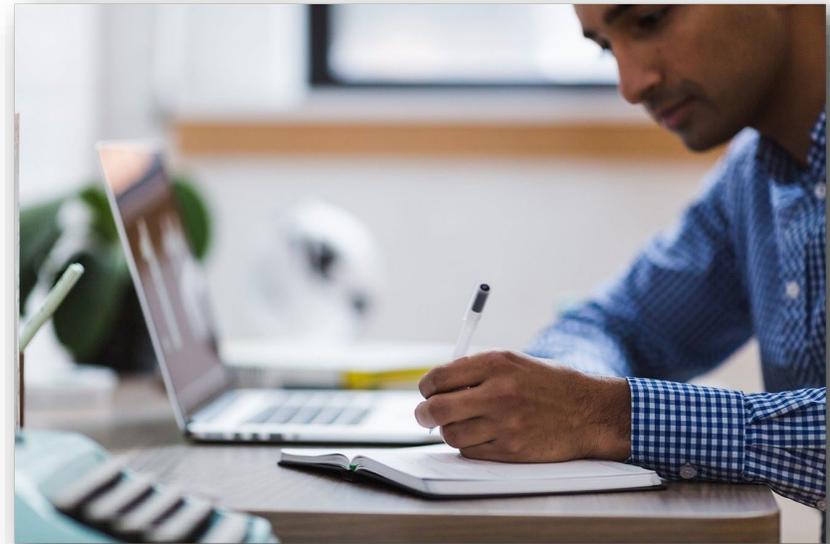
- **Purpose:** Summarize responsibilities of the selected consultant (e.g., for a Grant Administrator, list assigned duties and responsibilities administratively and otherwise)
- **Role of Selected Consultant:** Describe responsibilities of the consultant or developer in relation to other parties (parallels the discussion of roles of the parties)
- **Statement of Work:** List the tasks the consultant will perform, including enough details that the consultant can provide a price for the services
- [Example Grant Management SOW](#)

Independent Cost Estimate (ICE)



Subrecipients may use multiple sources to develop an ICE, including:

- Price last paid for similar procurement
- Comparison of previous prices paid for similar services
- Personal experience
- Other historical information
- Detailed analyses
- Information from other communities regarding similar bid outcomes



Evaluation and Selection Committee



Subrecipient Responsibilities

- Select the committee before drafting the RFP to get their input in defining the needs and evaluation/selection criteria
- Include members with relevant expertise (e.g., Project Managers, Engineers, Procurement/Contracts) and establish roles and milestone dates based on the project schedule
- Require members to sign a letter concurring to no conflict of interest and confidentiality during the RFP process

Committee Responsibilities

- Review relevant information (e.g., scope of work, purchase description/specifications) and develop weighted evaluation criteria



Scenario: Deliverable Requirements



Subrecipient requests unit quantity pricing for the following tasks:

- Develop the implementation plan and host the project kick-off meeting
- Perform environmental review and receive release of funds
- Acquire the project site
- Develop Invitation to Bid for construction services to implement the project
- Process request for payments for contractor payments
- Monitor project for compliance with cross-cutting federal requirements
- Close out the project

Scenario: Submission and Evaluation Requirements



- Summarize submission requirements (outline is recommended) in the RFP
- List the proposal evaluation criteria and include the weighting for each criterion

RFP Section	Page Limit
Approach to accomplish each task in the SOW	3 pages
Project Staffing	3 pages
Qualifications	4 pages
Fee Proposal – sealed and opened after qualitative proposal selected	No page limit
Financial Information	No page limit
References	3 pages



Scenario: Scoring the RFP

- Include scoring criteria and the weighting for each RFP requirement

Scoring Criteria	Weighting
Contractor Qualifications and Capacity	20 pts
Contractor Past Performance	20 pts
Contractor Technical Approach	30 pts
Price	30 pts
TOTAL	100 pts

- Include other requirements (e.g., liability and worker's compensation insurance, liquidated damages, performance and payment bonds)

Schedule and Required Information



- Explain the selection process and the schedule for each step (e.g., proposals due, firm under contract)
- Give date(s) of any pre-proposal conference(s), the location, and whether attendance is mandatory
- State the requested contract type (e.g., fixed price) and include a copy of the draft contract in the RFP
- List any rules, regulations, and licensing requirements that apply to the selected respondent
- State Section 3 and disadvantaged business requirements and your commitment to implementing these requirements
- Include your statement of equal opportunity employment

Schedule and Required Information



- Acknowledge that questions may arise about the RFP and require them in writing
- Include the following language in the RFP:
 - Subrecipient reserves the right to cancel the RFP, reject any or all proposals, and waive minor informalities for proposers if in the public interest
 - Procured consultants will not be considered Subrecipient personnel and the proposal of certain personnel is a statement of their availability to do the work for the entirety of the contract term
 - Contact between respondents and Subrecipient staff, board members, or residents is prohibited during the selection process

Attachments



Include the following attachments:

- Form for each respondent's fee proposal (*optional*)
- Copy of draft contract with contractual obligations for selected respondents (include required contract provisions)
- Copy of required forms (e.g., Byrd Anti-Lobbying)
- Copy of applicable federal riders





M/WBE Requirements

Take all necessary affirmative steps to use small businesses, minority owned businesses, women's business enterprises, and labor surplus area firms when possible

- Include solicitation lists
- Ensure they are potential sources of products or services to be bid
- Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum M/WBE participation (i.e. provide alternative bidding scenarios)
- Establish delivery schedules to encourage M/WBE participation (i.e. flexibility)
- Use the services and assistance of the Small Business Administration, and the Minority Business Development Agency, U.S. Dept. of Commerce
- Require the Prime Contractor to take affirmative steps to subcontract with M/WBE, if they award subcontracts

Additional RFP Considerations



After creating the RFP:

- Advertise the bid in local and regional newspapers
- Make it available at the local level (city hall, website, etc.)
- Submit it to various vendors in the field of services
- Cast a broad net of communication to bid to show fair competition

Do not:

- Allow a vendor to create the RFP and bid on it (COI; subject to re-procurement)
- Award a geographic preference to respondents
- Break up a competitive bid to circumvent the simplified acquisition threshold



Addenda

- Issue addenda before proposals are received
- Once a solicitation is released, it may only be changed via addendum. Potential changes include:
 - Information to accommodate additional requests
 - New due date
 - Correction of a mistake
 - Clarification of an ambiguity in the SOW
- Respondents must submit signed addenda with proposals as part of the submission package



Evaluation and Selection of Proposals

Selection and Responsiveness



Respondent must be **responsive** and **responsible**:

- Complies with all material terms and conditions of the solicitation and all requirements of the specifications and was submitted in form specified in the solicitation
- Does not have any liens and is not debarred or otherwise excluded from completing the work

Other RFP requirements:

- Time, date, and place
- Bid, performance or payment security bonds
- Samples, literature, or other information
- Disclosure statements
- Attendance at mandatory (if made mandatory) pre-bid conference or site visit/inspection



Scoring the RFP Responses

Weighted Scoring Matrix				
Criteria	Weighting	Company A	Company B	Company C
Qualifications and Capacity	20	16	14	13
Past Performance	20	15	17	14
Technical Approach	30	24	27	22
Price	30	26	25	21
TOTAL	100	81	83	70



Scoring the RFP Responses

- Insert a written justification in the procurement file if you do not select the highest scoring respondent
- Perform a debarment check on the contractor and subcontractors and check their references
- Prepare a Notice of Award for the selected respondent before moving into the contract execution phase of the procurement process



Scenario: Conduct Price Analysis



- In this scenario, the winning proposal is \$58,500 which is below the Simplified Acquisition Threshold
- The proposal requires a Price Analysis:
 - Compare prices quoted by suppliers, contractors, etc. to each other
 - Show that the price is fair and reasonable
- Compare to the ICE performed prior to issuing the RFP



Cost/Price Analysis for Profit Negotiation



- Profit is the amount paid to a contractor above the total cost of the contract
- Consider the following when negotiating profit:
 - Complexity of the work to be performed
 - Risk borne by the contractor
 - Amount of subcontracting
 - Quality of the contractor's past record

Cost/Price Analysis for Profit Negotiation (Cont.)



Sample ICE

UNIT: Cost to process Request for Payments for contractor payments, and required reporting	Frequency	# of Hours SME	Total SME Hours	# Hours SPM	Total SPM Hours	# of Hours AA	Total AA Hours	Overall Total Hours	SME RATE	SPM Rate	AA Rate	Total costs	
Direct Labor													
Draft and submit request for payment per CDBG regulations (per invoice)	24	1	24	0.5	12			36	\$60	\$ 120	\$ 25	\$ 2,880.00	
Review payrolls for compliance with Davis Bacon, Section 3, Section 504	24	5	120	0.5	12			132	\$60	\$ 120	\$ 25	\$ 8,640.00	
Implementation and coordination of AFFH	3	1	3	0.5	1.5			4.5	\$60	\$ 120	\$ 25	\$ 360.00	
Create and submit required reports to GLO	54	0.5	27	0.25	13.5			40.5	\$60	\$ 120	\$ 25	\$ 3,240.00	
Respond to GLO in regards to project questions	48	0.5	24	0.25	12			36	\$60	\$ 120	\$ 25	\$ 2,880.00	
Assist in preparation of contract revisions (Amendments, Changes order, etc.)	2	4	8	2	4			12	\$60	\$ 120	\$ 25	\$ 960.00	
Review project files to ensure compliance with CDBG regulations	3	16	48	8	24			72	\$60	\$ 120	\$ 25	\$ 5,760.00	
Attend and prepare for monitoring visits	6	4	24	2	12			36	\$60	\$ 120	\$ 25	\$ 2,880.00	
General Administrative Costs													
Assist in tasks related to direct labor functions	24					3	72	72	\$60	\$ 120	\$ 25	\$ 1,800.00	
Overhead Costs													
Travel Related to the above (Hotels \$250, Rental Car \$35, Per Diem) Total \$325.00	24											\$ 7,800.00	
Total Costs												\$37,200.00	
Profit (8.5%)												\$ 3,162.00	
Total			32	278	14	91	3	72	369	480	960	200	\$40,362.00

Sample vendor costs via the RFP

Cost Type	Price
Total Direct & Indirect Costs	\$ 37,200.00
Profit (12%)	\$ 4,464.00
Total Cost	\$41,664.00



Contract Award

Contract Award



- Include RFP, complete scope of work, selected proposal, unit pricing, start date, completion date, liquidated damages, MBE/WBE and Section 3 requirements, insurance, 2 CFR 200 and HUD clauses
- Verify that the chosen vendor has no conflicts of interest
- Notify proposers of the winning proposal
- Issue Notice to Proceed to vendor



Contract Requirements

All contracts must:

- Be signed by all required parties, including the vendor/contractor and Subrecipient representative
- Be notarized
- Include required [contract reports](#) (submitted to GLO monthly)

GLO REQUIRED CONTRACT REPORTS

The GLO subrecipient contracts include various reporting requirements. Submission of reports should occur in accordance with the contract requirements and the [Implementation Manual](#).

→ [Monthly Report Form](#) 

→ [Audit Certification Form](#) 

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Contract Provisions

All contracts executed between the subrecipient and a contractor must include the following CDBG program requirements:

- Performance requirements and penalties
- Project schedule including the performance period and completion date
- All Section 3 covered contracts shall include the Section 3 Clause 22
- Mandatory standards and policies relating to energy efficiency in the state energy conservation plan (in compliance with the Energy Policy and Conservation Act 23)
- May *not* be a cost-plus contract award



Contract Revisions

- Make any permitted changes via change order
- Categorize changes by type and number them sequentially
- Maintain a log of all executed change orders for each procurement that includes:
 - Name of the vendor and the original contract amount
 - Reason(s) for and the dollar amount of the change order
 - Running total of the value of the changes and the revised contract amount
- Subrecipients may not make material alterations to the SOW or insert a renewal clause in the contract (must be made via new procurement)



Common Pitfalls

- Poor planning and preparation
- Lack of documentation
- Lack of “separation of duties”
- Not engaging in ICEs
- Misunderstandings of “conflict of interest” (specifically the appearance section)
- Failure to perform cost and price analysis on contract modifications or change orders and ensure that the work is necessary



Common Findings or Concerns



- Prohibited use of cost-plus percentage of cost contracting (*subrecipients should be entering into fixed-price contracts for competitive procurements*)
- Failure to prepare ICE prior to receiving proposals
- Failure to perform cost and price analysis on contract modifications or change orders
- Inclusion of non-competitive practices/requirements in procurement documents (e.g., geographic preference, minimal public advertisement, etc.)
- Failure to have an adequate contract administration system to track the history of each procurement action



Resources & Training

Resources

- 2 CFR 200 (Part 318-326 starts on page 117)
- [Buying Right Guide](#)
- [Quick Guide to Cost and Price Analysis](#)
- [GLO Website \(Procurement Section\)](#)
- [GLO Procurement Checklist](#)

Upcoming Training

- Requests for Qualifications (RFQ)
- WebEx invite to come soon





Questions?

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