Procurement Best Practices

Donald Walsh, Esq.
Wright, Constable & Skeen, LLP

Tywanna Taylor
Senior Director of Grants & Contracts
Family League of Baltimore
Key Factors for Procurement Standards

• Explicitly state procurement policy is written to comply with Uniform Guidance requirements.
• Include standards of conduct and conflicts of interest.
• Avoid unnecessary or duplicative acquisitions.
• Use vendors who are responsible and have a proven track record of integrity, compliance with public policy, and successful past performance.
Key Factors for Procurement Standards

• Maintain records sufficient to detail history of procurement (rationale for the method, contractor selection, and price considerations).

• *Must* be conducted providing full and open competition consistent with federal requirements

• *Must* take steps to use minority or women owned business when possible.
General Procurement Standards

• Micro-purchase threshold to below $10,000

• Simplified acquisition threshold below $250,000

• Identify anything above the $250,000 threshold

• Sole Source
Special Note

• Record sufficient detail to show the history of vendor or contract procurement including the justification of the need for the work to be done.

• Consider contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
Minimum Compliance Requirements

• Competition
  • Do not place unreasonable requirements to qualify
  • Do not require unnecessary experience and excessive bonding
  • Protect against OCI
  • Specify relevant requirements
  • Avoid arbitrary action
Minimum Compliance Requirements

• **Procurement by Competitive Proposals**
  - Publicize RFP and identify all evaluation factors and relative importance
  - Consider all responses to publicized RFP to the maximum extent practical
  - Solicit from an adequate number of qualified sources
  - Fairly and consistently evaluate responses
  - Award to responsible firm whose proposal is most advantageous with price and other factors considered
• Micro-Purchases of $10,000 or less
  
  • May be awarded by soliciting bids
  
  • *Should* distribute micro-purchases equitably among qualified suppliers
• Small Purchases $10,000 to $250,000

• Price or rate quotations *must* be obtained from an adequate number of qualified sources.

• *Must* use a bidding process, but is not required to select the lowest price vendor.
• Construction Projects over $250,000 with a Firm Fixed Price

  • Procurement by publicly solicited sealed bids

  • *Must* be awarded to the lowest price qualified bidder whose bid conforms to all material terms and conditions

  • Bids may be rejected if there is a sound documented reason
• Competitive Proposals over $250,000 Based on Either a Fixed Price or Cost Reimbursement

• When conditions are not appropriate for the use of sealed bids.

• *Must* be awarded to a qualified vendor whose proposal is most advantageous with price and other factors considered
• Sole Source Contracts over $10,000

• May only be used if one or more of these criteria are met:
  1) the service or good provided is unique
  2) in the case of an emergency or
  3) if federal funder authorizes it.
Selection Criteria

• Price but deference if other factors are important to the decision
• Objective method for selection
• Award is responsive and is most advantageous
• May reject when in best interest to do so
Policies to Consider for RFP

• Cost
• Subcontracts and Employment Standards
• Contract Terms
• Pre-Proposal Meeting/Questions
• Late Proposals
• Bonding Requirements
• Code of Conduct
• Equity
Documentation

• At a minimum:
  • Price sampling for small purchases
  • Selection of method of procurement
  • Selection of type of contract
  • Determination of proposals accepted or rejected
  • Determination of the basis for cost or price
Contract Administration

• Ensure proper oversight and management of procurement actions including contract execution

• Evaluating *timely* contractor performance

• Consider progress inspections, audits
Conflict of Interest Policy

Protect interests of tax-exempt corporation or taxpayer funds when contemplating transaction or arrangement which might benefit the private interest of an individual or might result in a possible excess in transaction.
Definitions

Who -

1) Any director, officer, employee, or member of a committee with governing board delegated powers who has

2) A direct or indirect financial interest
Definitions

• What -

• Financial Interest, directly or indirectly:
  • Ownership or investment interest in any entity (current or potential)
  • Compensation arrangement with any entity or individual who has a transaction or arrangement

• Compensation includes direct and indirect remuneration as well as gifts or favors
Procedures

• Duty to Disclose

• Determining Presence and Impact of Conflict of Interest

• Removal from Decision or Administration
Multiple Document Requirements

• All procedures must be documented in writing

• Conflict of interest policies covering employees involved in procurement

• Records detailing each procurement — including bids solicited, selection criteria, quotes from vendors and the final contract price
Procurement Practices to Chase Grants/RFPs
Prepare Your Boilerplate Text

• Have 100-word blurbs about each of your programs at hand so that they’re ready to drop into a proposal

• Master the Mission Statement
Read/Reread Applications and RFPs

• Highlight all the questions you must answer for each application

• Funders will be clear about what they will and will not fund
Start with a Summary

• Summarize your nonprofit’s needs in one paragraph

• Explain project and a brief plan of action

• State what funds seeking and what will accomplish

• Discuss the community your organization serves and how many people you impacted last year
Tips for Good Proposal

• Each proposal is unique
• Executive Summary
• A list of resume, qualifications and responsibilities of the key personnel and subcontractors
• Address the major topics in RFP in the same sequence as requested
• Ensure that the charts and graphs are relevant
• Provide a list of satisfactory completions of similar projects
• Make sure that the proposal is well-written — **Proofread**
• Make sure math is complete and correct
• Complete and signed all paperwork correctly