



Nassau County Procurement Policy Training

November 30, 2016

Agenda

- Introduction
- Countywide Procurement Policy
 - General Provisions
 - Procurement Process
 - Methods of Source Selection
 - Contract Administration
 - Appendices
- Procurement Procedure Guideline
 - Procurement Process Controls
 - Determining the Appropriate Procurement Method
 - Required Solicitation Documentation and Legislative Review
 - Contract Administration
 - RFP Boilerplate

Introduction

- What is procurement?
 - The procedures for obtaining goods or services (but not real property), including all activities related to needs assessment, solicitation development and issuance, contract award, contract administration, contract modification, vendor performance management, and contract close-out
- What is the legal basis for procurement in Nassau County
 - General Municipal Law
 - State Finance Law
 - County Charter
- What constitutes good public procurement?
 - Fair and Open Competition to the Extent Practicable
 - The more limited the level of competition, the more comprehensive the justification documentation must be
 - Transparency
 - Integrity
 - Risk-based Review
 - Clear Documentation of Actions, Justifications, and Approvals
 - Public Procurement Actions cannot be Arbitrary and Capricious
 - Arbitrary and capricious procurement actions may be challenged in court under Article 78 of the New York Civil Practice Laws and Rules

Introduction

- Why are the County's procurement policies being updated?
 - The current policy documents address
 - Most methods of source selection
 - Oversight approval requirements
 - Guidelines for conducting Requests For Proposals
 - The County's protest policy
 - The current policy documents do not address:
 - Applicability of the policy
 - Certain procurement-related social goals (e.g. Service-disabled veteran-owned business enterprises)
 - Essential elements of the procurement process
 - Contract administration requirements
- Why is this training necessary?
 - As part of the County's ongoing efforts to improve the transparency and integrity of its procurement practices, the County is revising its procurement policies to tighten controls and enhance the public's visibility into procurement processes and actions
 - All Nassau County staff responsible for conducting procurement-related activities must be aware of and adhere to the revised procurement policies
 - The County is developing internal tracking systems to support online review and approval of procurement documents
 - These systems reflect the County's revised policies, and will require procurement staff Countywide to adhere to the revised policies

Introduction

- Roles and Responsibilities

- Department

- Owns the solicitation and the contract
 - Responsible for:
 - Assessing departmental needs
 - Developing specifications
 - Determining the method of source selection
 - Cooperating with the Office of Purchasing
 - Conducting the solicitation
 - Evaluating the responses
 - Selecting the proposed vendor
 - Preparing and submitting all supporting documentation
 - Responding to oversight issues
 - Managing the contract
 - Monitoring and reporting performance
 - Maintaining the procurement record
 - Managing the department's procurement portfolio

- Procurement Compliance

- Works with County departments and the vendor community to establish and enforce procurement policies and procedures that promote fair, open competition to obtain the highest quality goods and services at the lowest net cost to support the mission of the County
 - Responsible for:
 - Establishing and enforcing the County's procurement policy
 - Developing and implementing systems and procedures to support departments' adherence to the policy
 - Managing the County's public information regarding procurement and contracts
 - Working with the vendor community and County entities to promote fair and open competition, transparency, and integrity in all procurement actions
 - Monitoring and reporting procurement performance metrics

Introduction

- Legislative Affairs
 - Reviews proposed contract awards for compliance with disclosure and oversight requirements
 - Manages the oversight approval process
- OMB
 - Funds availability
- County Attorney
 - Approves contract as to form
 - Reviews insurance
 - Approves negotiated terms
- DPW
 - Approves all capital procurements
- Legislature
 - Reviews personal services contracts and large purchases of goods and non-personal services
- Comptroller
 - Confirms funding availability
 - Reviews contract payment structure
 - Encumbers funds
- NIFA
 - Reviews large County-funded contracts as the County's fiscal monitor

Countywide Procurement Policy

General Provisions

- **General Provisions**

- **Applicability**—The Policy applies to all procurements by the County for goods, services, and construction to paid out of monies appropriated by the County Legislature
- **Exceptions:**
 - When an external funding source, law, consent order, or other prevailing cause requires otherwise
 - Discretionary appropriations
- **Designation of the County Chief Procurement Officer (CPO), responsible for:**
 - Establishing and enforcing County procurement policies and procedures
 - Promoting strong relationships between the County and the vendor community
 - Promoting diversity in the award of County contracts
 - Tracking and managing Countywide procurement performance
 - Managing procurement-related public information

- **Designation of Department Heads as Department Chief Contracting Officers (DCCO):**

- Responsible for overseeing and approving the department's procurement staff and actions
- Will be held accountable for ensuring that the department's procurements fully comply with the County's Procurement Policy and applicable law
- Will oversee all aspects and phases of a department's procurement activity from pre-procurement planning to contract performance evaluation and close-out
- Must be knowledgeable of, apply, and enforce this Policy and all other relevant County procurement policies within the department
- Shall act as the department's primary liaison to the CPO and external entities regarding procurement matters
- Shall certify that procurement actions within the department are in compliance with County policies and the law with respect to:
 - Source selection method
 - Solicitation process
 - Determination of non-responsiveness
 - Vendor responsibility

Countywide Procurement Policy

General Provisions

- Price justification
- Recommendation for award
- Vendor performance monitoring and reporting
- Administrative contract management and close-out
- Shall represent the department in all procurement-related matters
- Formal delegation of the DCCO role is allowed with the concurrence of the County's Director of Procurement Compliance/Chief Procurement Officer
- Policy Statements
 - Ethics
 - Nassau County employees are bound by the County's Code of Ethics set forth in Section 2218 of the Nassau County Charter and Section 22-4.2 of the Nassau County Administrative Code, as well as by Article 18 of the General Municipal Law ("Conflicts of Interest of Municipal Officers and Employees")
 - Public employees responsible for the expenditure of taxpayer dollars have a responsibility to ensure that their conduct will not violate the public trust placed in them; they must make certain that their conduct does not raise suspicion or give the appearance that they are in violation of their public trust
- Public employees and elected officials having responsibility for contracting at all levels shall:
 - Encourage competition, prevent favoritism, and obtain the best value in the interest of the County and the taxpayers;
 - Place professional responsibilities above personal interests;
 - Ensure fair competitive access to County procurement opportunities to a broad cross-section of responsible vendors;
 - Deal with the public and with vendors with courtesy, consideration, and even-handedness;
 - Not engage in any communication regarding the procurement with employees, agents, consultants or lobbyists of a bidder or proposer after the official commencement of a competitive procurement process (by the publication of an Invitation to Bid or RFP or similar action), except in such manner as is specifically authorized by the Invitation to Bid, RFP or other written instructions issued to bidders or proposers;
 - Use information gained confidentially in the performance of County duties solely in the County's interest; and
 - Report corruption and unethical practices, wherever and whenever discovered, to the appropriate official (the Commissioner of Investigations, the District Attorney, the Comptroller, or a member of the Legislature), and/or take such other action as is warranted by the situation

Countywide Procurement Policy

General Provisions

- In soliciting, awarding, or administering a procurement, under no circumstances may an agency or an official take into consideration the fact that a vendor or associated individual(s) has or has not made or promised to make a campaign contribution
- Vendors and their representatives have a responsibility to deal ethically with the County and its employees, and to respect the ethical duties of County employees
 - Information provided by vendors to the County must be complete and accurate
 - Vendors must at all times avoid conduct that is in restraint of competition
 - Vendors must not request County employees to engage in conduct that would violate the law, the Policy, or the principles set forth in this section
- When there is doubt as to whether conduct is prohibited by Nassau County's Code of Ethics or by Article 18 of the General Municipal Law, he or she should first consult with agency counsel and then if necessary with the County Attorney's Office; if he or she remains in doubt, then he or she should seek an opinion from the County Board of Ethics
- **Economic and Financial Opportunity**
 - Through the Office of Minority Affairs (OMA), the County promotes participation in contracting opportunities of minority-owned, women-owned, disadvantaged, and service-disabled veteran-owned businesses
- **Equal Contracting Opportunity**
 - It is the policy of the County to promote equal opportunity for women and minority group members by County contractors and subcontractors and to ensure that all persons employed by or seeking employment with such contractors and subcontractors are protected from unlawful discrimination as to race, creed, color, national origin, sex, age, disability, marital status, sexual orientation, gender, or citizenship status (and from any other unlawful discrimination pursuant to federal, state, local laws and executive orders) with regard to all employment decisions
- **Programs to Promote Contracting Opportunity**
 - **Minority- and Women-Owned Business Enterprises (MWBE)**
 - Formal goals are established for certain state-funded contracts
 - OMA pursues opportunities to enhance opportunities for County-funded contracts
 - **Disadvantaged Business Enterprises (DBE)**
 - Formal goals are established for certain federally-funded contracts
 - **Service Disabled Veteran-Owned Business Enterprises (SDVBE)**
 - The County has established a formal goal of awarding 6% of all County-funded contracts to SDVBES
 - **Section 3**
 - Formal Section 3 goals are established for certain federally-funded housing contracts

Countywide Procurement Policy

General Provisions

- Contract File Requirements
 - Department Contract Files
 - Copies of County contracts and other standard information regarding County contracts and vendors (including information relating to the vendor's qualification and performance evaluations, contract audits, and decisions regarding suspension and debarment) must be reasonably available for public inspection as provided by law, with adequate protection for confidential information
 - Each department shall maintain files that contain all documentation pertaining to the solicitation, award, and management of each of its contracts, purchase orders, amendments, renewals and change orders including, but not limited to, a written copy of each report, record, justification, approval, determination, or filing that is required to be made by law or this Policy
 - Electronic Signatures
 - To the extent permissible under applicable law and this Policy, and as feasible based on County information systems, departments shall store the contents of contract files electronically, and may use and may allow vendors to use, electronic documents and signatures in the course of procurements
 - Any system used for storage of procurement-related documents in electronic form must be such as to provide for the security and integrity of the documents contained in it to an equal or greater degree than a traditional hard copy filing system
 - Retention of Contract Files
 - All contract files shall be retained within the County for a minimum of six years beyond the termination of the contract by each department before final disposition unless otherwise required by Schedule CO-2 as issued by the NYS Department of Education pursuant to record retention procedures of the County
- Requests by Elected Officials for Contract Documentation
 - Contract information requested by any County elected official shall be provided within 10 business days
 - If the requested information cannot be provided within 10 business days, then the department issued the request shall respond in writing to the requester with an explanation and estimated timeline for when the information will be made available
 - Any request for information shall be forwarded to the CPO immediately
 - The responsible department shall coordinate any response with the CPO, and a copy of any response shall be provided to the CPO as well

Countywide Procurement Policy

Procurement Process

- Procurement Process

- Decision to Procure Personal Services

- The request to procure personal services must be submitted to the DCCO in writing
 - Factors to consider in determining the need to procure personal services include:
 - Need to develop, maintain, or strengthen the relationships between non-profit and charitable organizations and the communities where services are to be provided
 - Cost-effectiveness
 - Need to:
 - Obtain special expertise,
 - Obtain personnel or expertise not available in the department,
 - Provide a service not needed on a long-term basis,
 - Accomplish work within a limited amount of time, or
 - Avoid a conflict of interest

- Presolicitation Review (PSR)

- The process by which a department, after determining the necessity of the procurement and the need to contract out, defines the existing market for the goods, services, or construction required, estimates the expected cost, and determines the most appropriate method of procurement

- Policy

- Departments shall perform a presolicitation review for:
 - Sole source procurements of \$500 or more for goods and/or services,
 - Personal services procurements of \$1,000 or more
 - All competitive solicitations of greater than \$10,000
 - Emergency contracts are exempted from this requirement

- Categorical Review

- Upon approval by the CPO, the DCCO may determine that a single presolicitation review be conducted for a particular category of contracts; such determinations shall be reevaluated annually

- Record

- The presolicitation review shall be incorporated as part of the solicitation record that shall be approved by the DCCO and the CPO and shall include:
 - A description of the goods, services, or construction to be procured;

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Procurement Process

- A statement of need for the procurement in light of the department's programmatic responsibilities;
 - A statement of the date or time period required for delivery or completion, and an estimate of the length of time the proposed contract will remain in effect, including any renewals or extensions being considered;
 - A statement of the basis for the decision to contract out for services (if applicable);
 - A statement addressing the anticipated level of competition, based on department staff knowledge of the market, and any surveys performed, as appropriate;
 - An estimate of the cost of the proposed contract, and a certification that sufficient funds are available or anticipated to be available when the contract is executed;
 - A statement of the method of source selection planned, together with all determinations and findings required pursuant to the rules governing that method of source selection; and
 - If life cycle costing, value analysis, or other technique is used, the result of such analysis
- **Cost-Plus Reimbursement Contracts**
 - A cost-plus-percentage-of-cost ("cost-plus") reimbursement contract shall be used only when the DCCO determines with CPO approval that it will be less costly to the County than any other type or that it is otherwise in the best interests of the County to obtain the required goods, services, or construction by using such a contract
 - The proposed vendor's accounting system must adequately allocate costs in accordance with generally accepted government accounting principles and will permit timely generation of all necessary cost data in the format required
 - Any cost-plus-percentage-of-cost contract shall specify the maximum allowable expenditure
 - **Specifications**
 - Specifications are used to obtain goods and services to fulfill the County's needs in a cost-effective manner, taking into account, to the extent practicable, the costs of ownership and operation, as well as costs of acquisition
 - Specifications shall:
 - Permit maximum practicable competition;
 - Describe clearly the County's requirements without favoritism toward a vendor or a vendor's good or service;

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Procurement Process

- To the extent practicable, be generic in nature and emphasize functional or performance criteria, while limiting design or other detailed physical descriptions to those necessary to meet the County's needs; and
- To the extent practicable, utilize accepted commercial standards, and limit unique requirements that would tend to favor a vendor or a vendor's good or service
- Authority to Contract for Drafting of Specifications
 - Drafting of specifications may be performed by a vendor only upon a written determination by the DCCO that it is in the best interest of the County to do so
 - Any vendor participating in the drafting of specifications shall not participate, in any manner, in a response to any subsequent solicitation utilizing such specifications, in whole or in part
 - Such prohibited participation shall include, but not be limited to, participating as a contractor or a subcontractor, or as a consultant to any contractor or subcontractor, responding to the solicitation using the specifications
- Brand Name Specifications
 - When a brand name only specification is used, the DCCO shall document and the CPO must approve the reasons for its use
 - When brand name or equal specifications are used, one or more brand name(s) and the salient characteristics of the brand name(s) shall be set forth in the solicitation
- Price/Cost Analysis
 - Prior to vendor selection, the DCCO shall determine that the contract price is fair and reasonable by using price analysis and, where appropriate, cost analysis, as these terms are defined in this Policy, to make this determination
- Vendor Outreach
 - The policy is intended to improve competition for contracting opportunities; enhance opportunities for MWBE, DBE, and SDVBE vendors; and strengthen and diversify our vendor base
 - For all competitive small purchases, notice of solicitation shall be sent to all eligible registered vendors
 - Departments proposing to solicit any formal sealed bid or other competitive solicitation over \$10,000 shall notify OMA at least 30 days prior to advertising the solicitation
 - OMA may issue a waiver of this requirement if the need is of such urgency that 30 days' notice is not possible
 - To the extent feasible, certified M/WBE, DBE, and SDVBE vendors shall be considered and given an opportunity to participate in all solicitations
 - Advertising periods for solicitations over \$10,000 shall be at least 15 days
 - Any shorter period must be justified in writing by the DCCO

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Procurement Process

- To survey the marketplace and gauge vendor interest for specific solicitations, departments are encouraged to use:

- Requests For Information (RFI)
- Pre-solicitation conferences prior to advertising
- Pre-bid conferences prior to solicitation response due date (opening date)

All meetings related to a specific solicitation shall be documented in the procurement file

- Single response analysis shall be documented in writing by the DCCO for all formal solicitations (over \$10,000) as applicable
- Whenever feasible, competitive solicitations of \$50,000 or greater shall be advertised in the New York State Contract Reporter (NYSCR) in addition to other required advertising placements
 - The DCCO shall justify in writing and include in the procurement file any decision not to solicit such a contract in the NYSCR

- Responsiveness of Bids/Proposals

- A responsive bid or proposal is one that complies with all material terms and conditions of the solicitation and all material requirements of the specifications
- The DCCO shall make a written determination of responsiveness prior to award
- Determination of Non-Responsiveness
 - If the lowest price bid or any proposal is found non-responsive, a determination, setting forth in detail and with specificity the reasons for such finding, shall be made by the DCCO
 - A copy of such determination shall be mailed, faxed, or emailed to the non-responsive vendor and the CPO no later than two business days after the determination is made, and the department shall inform the vendor of the right to appeal as set forth herein
 - Such notice shall also inform the vendor that, if an appeal is taken, award of the contract shall be stayed pending the determination of the CPO, unless with the approval of the CPO the DCCO makes a determination and informs the vendor that the award will not be stayed because proceeding with the award without delay is necessary to protect substantial County interests

Countywide Procurement Policy

Procurement Process

- Factors affecting the responsiveness of bids or proposals include:
 - Compliance with all material requirements of the specification
 - Compliance with all material terms and conditions of the solicitation
 - Submission of bids or proposals in the form specified in the solicitation including all required signatures, in ink, and including all required pricing information
 - If bid or proposal price has been materially altered, alterations must be initialed in ink by the bidder or proposer. If the alteration has not been initialed in ink, and can be severed from the other items in the bid or proposal, then that particular item only may be considered non-responsive
 - Submission of bids or proposals by the time and date and at the place specified in the solicitation except that a late proposal may be accepted pursuant to this Policy
 - Submission of bid, performance, or payment security, if required by the solicitation. Acceptable security for bids, performance, and payment shall be limited to:
 - a one-time bond in a form satisfactory to the County
 - a bank certified check or money order
 - other financial instruments as determined by the Department of Public Works in consultation with the County Attorney and the Comptroller
 - Submission of samples, literature, or other information, if required by the solicitation
 - Submission of all required disclosure statements
 - Attendance at a mandatory pre-bid or pre-proposal conference or site inspection
- Rejection of Bids or Proposals
 - Any bid or proposal that is determined by the DCCO to be non-responsive shall be rejected
- Appeal: All non-responsive determinations may be appealed to the Department Head, unless the Department Head is acting as the DCCO in which case the determination must be appealed to the CPO
- Time Limit: A vendor shall have five days from receipt of the determination of non-responsiveness to file an appeal with the Department Head/CPO
- This time limit shall be stated in the notice to the vendor of the determination of non-responsiveness
- Receipt of notice by the vendor shall be deemed to be no later than five days from the date of mailing or upon delivery, if delivered
- Filing of the appeal shall be accomplished by actual delivery of the appeal document to the office of the DCCO
- The vendor shall also send a copy of its appeal to the CPO
- Form and Content: The appeal shall be in writing and shall briefly state all the facts or other basis upon which the vendor contests the finding of non-responsiveness; supporting documentation, if any, shall be included

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Procurement Process

- Stay of Award of Contract Pending Department Head Determination: Award of the contract shall be stayed pending the determination of the Department Head/CPO, unless the DCCO with the approval of the CPO makes a determination that proceeding with the award without delay is necessary to protect substantial County interests
 - Where such a determination is made, the vendor shall be advised of this action in the determination of non-responsiveness or, if the stay is removed at any time after the vendor has been notified of determination of non-responsiveness, notification shall be provided to the vendor no later than two business days after such determination is made.
 - The Department Head/CPO shall consider the appeal, and may, in his or her sole discretion, meet with the vendor to discuss the merits of the appeal
 - The Department Head/CPO shall make a prompt determination with respect to the merits of the appeal, a copy of which shall be sent to the vendor and the CPO
 - The Department Head's/CPO's determination shall be final
 - The Department Head shall not delegate the authority to make a determination on the appeal to the DCCO
- Vendor Responsibility
 - A responsible contractor is one which has the capability in all respects to perform fully the contract requirements and the business integrity to justify the award of public tax dollars
 - Factors affecting a contractor's responsibility may include:
 - Financial resources
 - Technical qualifications
 - Experience
 - Organization, material, equipment, facilities, and personnel resources and expertise (or the ability to obtain them) necessary to carry out the work and to comply with required delivery or performance schedules, taking into consideration other business commitments
 - A satisfactory record of performance
 - A satisfactory record of business integrity
 - Where the contract includes provisions for reimbursement of contractor costs, the existence of accounting and auditing procedures adequate to control property, funds, or other assets, accurately delineate costs, and attribute them to their causes
 - Compliance with requirements for the utilization of small, minority-owned, and women-owned businesses as subcontractors
 - Failure of a firm to provide relevant information requested by the Contracting Officer may be grounds for a determination of non-responsibility

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Procurement Process

- Ability To Meet Standards
 - The prospective contractor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:
 - Evidence that such contractor possesses such necessary items
 - Acceptable plans to subcontract for such necessary items
 - A documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items
 - A prospective contractor that has performed unsatisfactorily shall be presumed to be non-responsible unless the Contracting Officer determines that the circumstances were beyond the contractor's control or that the contractor has taken appropriate corrective action
 - Past failure to apply sufficient tenacity and perseverance to perform acceptably is strong evidence of non-responsibility
- Vendor Integrity and Disclosure Forms
 - Required to be on file prior to contract execution
 - Exhibit A: Political Campaign Contribution Disclosure Form
 - Must be submitted only when requested by the County to an intended awardee
 - Exhibit B: Lobbyist Registration and Disclosure Form
 - Must be completed and submitted by any lobbyist identified by the intended awardee in the Consultant's, Contractor's, and Vendor's Disclosure Form
 - Business History Form
 - Principal Questionnaire
 - Must be submitted by any officer of the company holding a title listed in the form, and also any individual holding a 10% or greater ownership interest
 - Consultant's, Contractor's, and Vendor's Disclosure Form
 - All forms must be submitted by:
 - Contractors
 - Subcontractors
 - For Intermunicipal agreements (IMAs) only the Consultant's, Contractor's, and Vendor's Disclosure Form must be submitted

Countywide Procurement Policy

Procurement Process

- It is the vendor's responsibility to maintain and update as necessary all vendor integrity and disclosure documents at all times during which the vendor is seeking to do business with the County or is performing services per a contract awarded by the County
- It is the vendor's responsibility to notify the County in writing immediately when there is a material change to the vendor's integrity or disclosures
- Making the Responsibility Determination
 - The following sources of information shall be used to support determinations of responsibility or non-responsibility:
 - All pertinent databases of debarred, suspended, and ineligible contractors
 - Records of evaluations of performance, as well as verifiable knowledge obtained by County personnel
 - Determinations of violations of employment-related federal, state, or local law or executive order, including but not limited to those relating to equal employment opportunity, prevailing wage, workplace health and safety, employee benefits, and employee wages and hours
 - Information supplied by the prospective contractor, including bid or proposal information and integrity and disclosure documents, replies, financial data, information on production equipment, and personnel information
 - Other sources of relevant information
 - A Contracting Officer may notify the bidder or proposer of unfavorable responsibility information and provide the bidder or proposer an opportunity to submit additional information or explain its actions before adverse action is taken by the County
- Determination of Vendor Non-responsibility
 - A finding of non-responsibility carries significant weight
 - It may preclude the vendor from award of not only the award under consideration but also prevent future potential awards
 - Therefore a vendor should be found to be non-responsible only when they are the lowest bidder or most advantageous proposer that is fully responsive to the solicitation but otherwise unfit for award of the contract
 - Upon a finding of non-responsibility the DCCO shall prepare a letter to the vendor notifying them of:
 - The specific reasons for the determination
 - The vendor's right to appeal the determination in writing within ten calendar days
 - The letter must indicate to whom and where an appeal must be filed
 - The letter shall be signed by the DCCO
 - If the Department Head is functioning as the DCCO, any appeal must be made in writing to the CPO with a copy sent to the Department Head
 - If the Department Head has delegated the role of DCCO to a subordinate, any appeal must be made in writing to the Department Head with a copy sent to the CPO

Countywide Procurement Policy

Procurement Process

- Award of the contract will be stayed pending resolution of any appeal
- Response to any appeal shall be in writing by the Department Head or CPO as appropriate
 - Appeal response shall be processed expeditiously
 - Appeal response is final
- **Recommendation For Award (RFA)**
 - The DCCO shall prepare a Recommendation For Award for procurements for goods greater than \$10,000 and for personal services \$1,000 or greater
 - The RFA shall be incorporated as part of the solicitation record that shall be approved by the DCCO and the CPO
 - The RFA shall contain substantially all of the following information:
 - Department name
 - NIFS ID#
 - If other than competitive small purchase bid or formal sealed bidding, a summary of the procurement method used
 - If award is made to the bidder whose bid represents the best value to the County, a summary of the criteria used in determining best value
 - Date solicitation mailed/issued
 - Number of businesses solicited
- Date and name of all publications of any advertised notice
 - For sole source, the date of the notice of intent to enter negotiations
- Date responses to solicitation opened
- For bids, the number of responses and the prices received for each bid that was opened (the bid tabulation sheets)
- For proposals, the number of proposals received, overall technical rating of each proposal, and the proposed price for each proposal that was opened
- Summary of responsiveness or non-responsiveness determination
- Explanation of responsibility determination
- Name, address, telephone number, and federal taxpayer's identification number of recommended contractor(s) and, if more than one contractor, details on the specific items awarded each
- Dollar amount(s) of contract(s) compared with solicitation estimate(s)
- Basis for award
 - If award is made to other than the bidder submitting the lowest initial price, detailed reasons shall be included
- Date and signature of DCCO
- Date and signature of all required approvals
- For sole source awards, the number of expressions of interest in response to public advertisement and a summary of the cost/price analysis used to determine that the cost to the County will be fair and reasonable

Countywide Procurement Policy

Procurement Process

- All applicable written determinations and written justifications required by this Policy
- For services, if applicable, an assessment of vendor's performance during the prior contract period (overall rating of latest performance assessment)
- For social/client services, if applicable, date, period covered, and findings of the latest available financial audit report, the name of the CPA firm that conducted it, and whether the CPA firm was unable to express an opinion as to the adequacy of the provider's books and records
- The Recommendation For Award shall be approved by the DCCO and subsequently requires approval of the CPO
- Vendor Protest
 - A vendor may protest any procurement action or decision not otherwise subject to an appeal process
 - A protest may be filed within ten days of any procurement action or decision
 - The protest shall be filed with the Department Head and shall briefly state all the facts or other basis upon which the vendor contests the department's decision
 - A copy shall be sent to the CPO
 - Response to any protest shall be in writing
 - Departments are advised to discuss any proposed protest response with the CPO
 - Protest response shall be processed expeditiously
 - Protest response is final
 - A copy of the protest response shall be sent to the CPO
- Contract Approval Path
 - Purchases < \$500
 - No competition required
 - Processed by the Office of Purchasing
 - Non-personal service purchases of at least \$500 and not greater than \$10,000, and personal services of at least \$500 and less than \$1,000
 - Solicited through one of the County's online bid boards or otherwise as determined by the issuing department
 - Processed by the Office of Purchasing or issuing department
 - Formal Sealed Bid greater than \$10,000 and less than \$50,000 for goods and non-personal services
 - OMB must certify that sufficient funds are available in the requesting department's budget
 - IT must approve any information technology goods and services purchase
 - The Office of Fleet Management must approve any purchase or lease that relates to motor vehicles
 - DPW must approve any purchase that involves capital funds
 - The Director of Purchasing or his or her delegate must approve the contract unless it is a public works contract in which case the DPW Department Head or DCCO approves it
 - The Comptroller must approve the contract and certify that funds will be encumbered for its execution

Countywide Procurement Policy

Procurement Process

- Formal Sealed Bid of at least \$50,000 for goods and non-personal services also requires approval of NIFA
- Any award that results in a cumulative award amount to a single vendor of at least \$50,000 in the past 12 months requires approval of NIFA
- Any procurement of at least \$100,000 for goods and non-personal services requires approval of the Rules Committee of the Legislature
- Personal Services contracts of at least \$1,000 require:
 - All approvals required for Formal Sealed Bids
 - The approval of the Rules Committee of the Legislature
- Sole Source
 - Approvals similar to other requirements for goods, non-personal services, or personal services as applicable
 - CPO now will review prior to negotiation
- Emergency Procurements
 - Approvals are stated in the Charter
 - For any emergency contract issued without a formal federal, state, or local state of emergency, the CPO will review prior to solicitation to ensure adequate competition

Countywide Procurement Policy

Method of Source Selection

- Method of Source Selection

- Formal Sealed Bidding

- Appropriate for:
 - Goods
 - Standard Services with:
 - Defined units and unit costs
 - Good quantity estimates
 - Construction
 - Award is made to the lowest responsive, responsible bidder
 - Terms are set in the solicitation (no exceptions or negotiation)

- Request For Proposals

- Appropriate for Personal Services
 - Award is made to the proposer offering the best value to the County
 - Best value is the most advantageous combination of cost, quality and efficiency as defined in the solicitation
 - Negotiation of terms within the scope of the solicitation is allowed

- Streamlined Competitive Proposal Process (SCP)

- Appropriate in very limited circumstances
 - Failure of a vendor currently on contract
 - Unanticipated circumstance that does not justify a formal declaration of emergency but that requires expeditious remediation
 - Award is made to the proposer offering the best value to the County
 - Best value is the most advantageous combination of cost, quality and efficiency as defined in the solicitation
 - Negotiation of terms within the scope of the solicitation is allowed

- Sole Source

- Appropriate only for justified sole source procurements
 - Patents
 - Standardization
 - Evidence of a lack of a competitive market
 - Specifications cannot be tailored to a single vendor unless there is no alternative
 - Terms are negotiated
 - A notice of intent to enter into sole source negotiations must be issued prior to entering negotiation
 - Responses must be compiled and addressed as appropriate
 - Subject to CPO approval prior to entering negotiations

Countywide Procurement Policy

Method of Source Selection

- DPW Construction
 - Processed as Formal Sealed Bids
- DPW Professional Services
 - Processed as RFPs
 - Small Procurements may be processed as SCPs
- Small Purchases
 - Processed by Purchasing
 - Less Than \$500
 - Noncompetitive
 - Price reasonableness must be established
 - At Least \$500 and Up To \$10,000
 - Posted on the County's informal bid board
 - Responses are submitted electronically
- Direct Purchase Order
 - Processed by Purchasing
- Emergency Purchases
 - Authorized only when a condition threatens the life, health, safety, or property of the County's inhabitants or public property, including protection of essential County services
 - Goods and non-personal services are processed by Purchasing
 - \$100,000 or more require approval of the full Legislature
 - Without a resolution, the emergency purchase is limited to \$100,000 and a term of one year
 - Personal services are processed by the issuing department
 - Rules Committee approval is required within 12 or 72 hours
 - Period depends upon whether an immediate threat to health exists
 - If the period lapses without action by the Legislature, the purchase is deemed to be approved
 - Construction is processed by DPW
 - Rules Committee approval is required as for personal services
 - Requirements
 - Declaration of emergency by the County Executive prior to solicitation
 - Documented maximum practicable competition
 - Preapproval of the CPO to ensure adequate competition for any emergency contract not issues under a formal state of emergency

Countywide Procurement Policy

Method of Source Selection

- Intergovernmental and Cooperative Purchases
 - OGS Contracts
 - Piggybacking is allowed
 - Terms of the OGS contract must be followed
 - Out of scope work is not allowed
 - GSA Contracts
 - Piggybacking is allowed for Information Technology (Schedule 70) and Emergency Preparedness and Response (Schedule 84)
 - Piggybacking is allowed under limited circumstances for other schedules primarily relating to emergency preparedness and response
 - Cooperative and other State/Local Contracts
 - Piggybacking is allowed under limited circumstances
- Preferred Source Purchases
 - NYS Authorized Organizations
 - Corcraft
 - NYS Industries for the Disabled (NYSID)
 - NYS Preferred Source Program for People who are Blind (NYSPSP)
 - Required goods/services are identified in the NYS Preferred Source Catalog

Countywide Procurement Policy

Contract Administration

- **Contract Administration**

- **Evaluation and Documentation of Vendor Performance**

- Performance Evaluations must:
 - Reflect the objectives of the contract
 - Provide specific goals and performance criteria
 - Include both quantitative and qualitative measures
 - Address:
 - Quality
 - Timeliness
 - Administration
 - Accountability
 - Performance Evaluations must be performed and documented annually for service contracts, or at least once for contracts with a term less than one year
 - For goods contracts and for procurements below the small purchase threshold performance evaluations are required only in cases of deficient performance
 - Notice of deficient performance shall be made to the vendor as soon as practicable and recorded as backup for performance evaluations
 - Performance evaluations will be maintained in the procurement file
 - A copy of each performance evaluation is to be sent to the CPO

- For client services contracts performance evaluations shall include:
 - Unannounced site visits
 - Assessments of client satisfaction

- **Contract Changes and Amendments**

- Contract changes may be necessary during contract administration to reflect:
 - Unanticipated site conditions
 - Additional work
 - Extensions of time
 - Terms and conditions
 - Non-material scope changes are prohibited
 - Such changes must be solicited separately
 - Contract changes are processed as:
 - Amendments
 - Advisements
 - Capital change orders
 - Renewals

Countywide Procurement Policy

Contract Administration

- Amendments
 - Used for changes which:
 - Increase the maximum contract amount
 - Significantly modify the terms and conditions
 - Address unanticipated conditions
 - Capital change orders
 - Task Orders
 - Require
 - Submission of the same justification package as is required for a new contract award
 - Exception: Only the relevant contract pages need be submitted with the amendment
 - The oversight review and approvals as for the original contract
 - Capital change orders are processed as required in the DPW procurement policy
- Advisements
 - Used for increasing contract funds up to, but not exceeding, the previously authorized maximum contract amount
 - Cannot be used to modify terms and conditions
 - Require:
 - Routing sheet, staff summary, cost justification, and relevant contract excerpt
 - Approval of OMB, Legislative Affairs, and the Comptroller
- Contract Renewals
 - Renewal options, including the number and term of any renewal, must be stated in the original solicitation
 - Renewals for Office of Purchasing blanket order contracts are executed as time extensions to the original contract with concurrence of the vendor
 - Renewals for other contracts are executed as new contracts
- Price Adjustments
 - Allowed during the term of a contract only when they are:
 - Included in the original solicitation
 - Deemed to be fair and reasonable
 - Determined in writing by the DCCO to be in the best interests of the County
 - To the extent feasible, price adjustments shall be determined objectively:
 - Government or industry indices or benchmarks identified in the original solicitation
 - Any solicitation that includes price adjustment terms must reiterate those terms in any resulting contract as a material element of the contract
 - A bidder or proposer may waive their claim to price increases in writing

Countywide Procurement Policy

Contract Administration

- Subcontracts
 - Allowed per the terms of the contract
 - Subject to prior approval of the DCCO
 - Subcontract requests must be submitted in writing stating:
 - Proposed vendor
 - Portion of the work to be subcontracted
 - Estimated cost of the subcontract
 - Subcontractors must submit all vendor integrity and disclosure forms required of the prime contractor
 - The County reserves the right to require additional submissions at its discretion
 - Subcontractor responsibility must be determined
 - Must present evidence of:
 - Sufficient facilities, skill, integrity, past experience, and financial resources to perform the required services
 - Department must review as applicable:
 - References
 - Disclosure forms
 - Licenses
 - Other sources of vendor responsibility information
 - Privity
 - Approval of the subcontractor does not establish privity between the County and the subcontractor
- RFP Boilerplate
 - Issued by the County Attorney's Office
 - Template to be used for all RFPs
 - Includes essential sections and attachments of the solicitation
 - Ensures that necessary information is provided in the solicitation
 - Benefits
 - Standardizes format
 - Facilitates internal preparation and review
 - Eases vendor understanding and response
 - Simplifies review of proposals

Countywide Procurement Policy

Summary

- Summary
 - Always act in the best interests of the County
 - Maximize in all procurement actions to the extent practicable:
 - Competition
 - Fairness
 - Transparency
 - Integrity
 - Use the tools available
 - Read the Policy and Procedure documents
 - Use checklists
 - Standardize the processes to the extent possible
 - Consult with:
 - Procurement Compliance
 - The Office of Purchasing
 - Legislative Affairs
 - Especially early on in the implementation process
- Respond to inquiries expeditiously
 - Some timelines are formalized
 - Oversight entities and vendors are more likely to process your requests timely
- Communicate effectively
 - Communicate in writing
 - This is a legal, auditable process
 - Include all relevant parties
 - Incorporate in the procurement record
- Monitor and manage performance
 - Vendors
 - Staff
 - Oversight entities
- Incorporate lessons learned into future procurements

Procurement Procedure Guidelines

Procurement Process Controls

- Procurement Process Controls

- Designation of the CPO

- Departmental Responsibilities

- Designation of the DCCO

- Pre-procurement planning and scheduling
 - Drafting specifications
 - Submitting requisitions to the Office of Purchasing
 - Coordinating procurement activities with Purchasing
 - Overseeing and evaluating vendor performance
 - Maintaining departmental procurement records and contract files
 - Monitor and approve all aspects of procurement of personal services from needs assessment and Request to Initiate to contract closeout

- Requisitions

- Submitted by the department in ADPICs
 - Must include:
 - Specifications
 - Quantities
 - Requested due date
 - Period of performance

- Cost estimate
 - List of known qualified vendors
 - Justification for the purchase

- Specifications

- Must:

- Clearly and accurately describe the department's needs
 - Permit maximum practicable competition
 - Not favor a given vendor
 - Be generic and emphasize functional or performance criteria to the extent practicable
 - Utilize accepted commercial standards when available
 - Not limit the solicitation to a single brand name
 - Brand specific solicitations require pre-approval by the CPO
 - Include vendor performance criteria

- Per GML 104 solicitations containing sole source components require pre-approval by the Legislature

- Justification

- Justification for the procurement explaining why the goods and services are required must be provided with the requisition

Procurement Procedure Guidelines

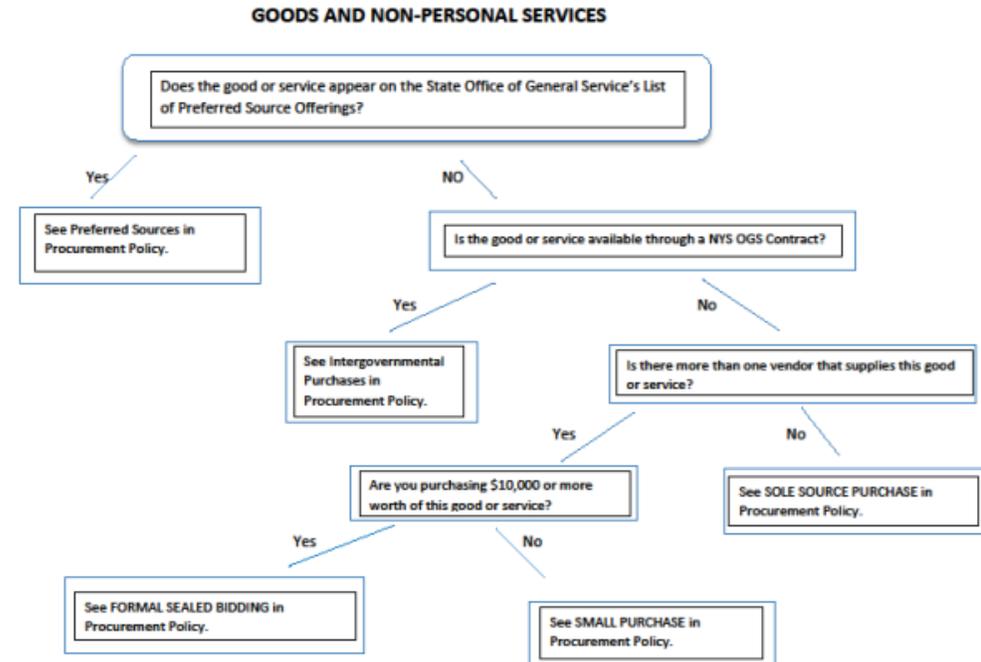
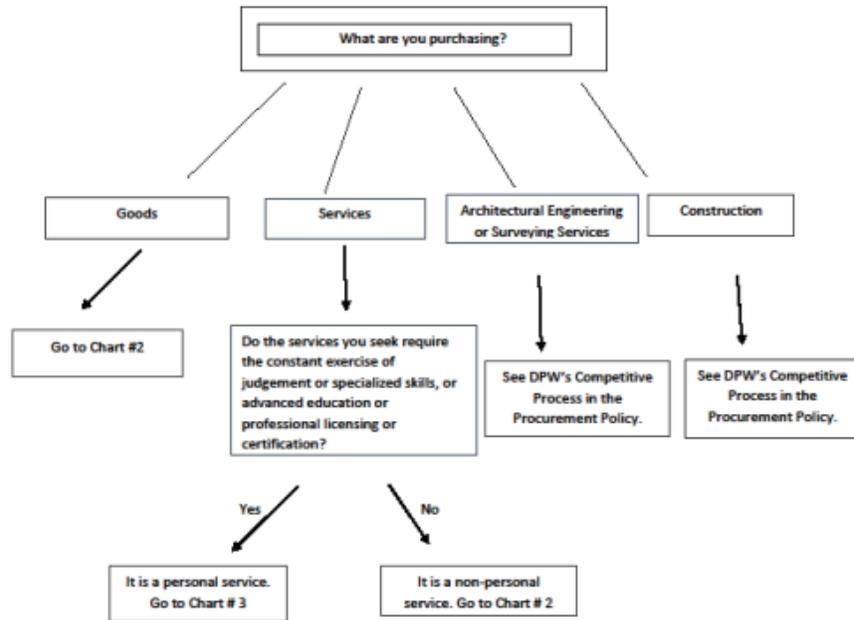
Procurement Process Controls

- Cooperation with the Office of Purchasing
 - Provide necessary information and documents timely
 - Assist as needed with evaluation of responses
 - Assist as needed with negotiating contract terms
- Evaluation and Documentation of Vendor Performance
 - Performance evaluations must be prepared and filed annually and upon completion of the contract, or once upon completion of the contract for contracts with a term of one year or less
 - A copy of each performance evaluation shall be maintained in the department's contract file
 - A copy of each performance evaluation shall be sent to the CPO
 - For contracts executed by the Office of Purchasing, a copy of each evaluation shall be transmitted to Purchasing for retention in its contract file.
 - Content of the performance evaluation shall include:
 - The extent to which the vendor delivered goods or services as required by the specification
 - Timeliness of performance
 - Responsiveness of the vendor to department concerns or complaints
 - For goods contracts and services contracts below the small purchase threshold, a formal evaluation is required only when the vendor's performance is deficient
 - Deficient performance at any time must be brought to the attention of the vendor as soon as practicable in writing
- Contract Files
 - A contract file must be maintained by the department for every contract
 - It must include all records regarding:
 - Solicitation
 - Contract award
 - Contract management
 - Purchase orders
 - Amendments, advisements, and change orders
 - Performance evaluations
 - Renewals
 - Contract audits
 - Any other pertinent information
 - Electronic documents and signatures may be used to the extent practicable provided that they provide for security and integrity of the documents equal to or greater than for paper files
 - Contract files shall be maintained for a minimum of six years beyond the expiration date of the contract in accordance with the County's records retention policy

Procurement Procedure Guidelines

Determining the Appropriate Procurement Method

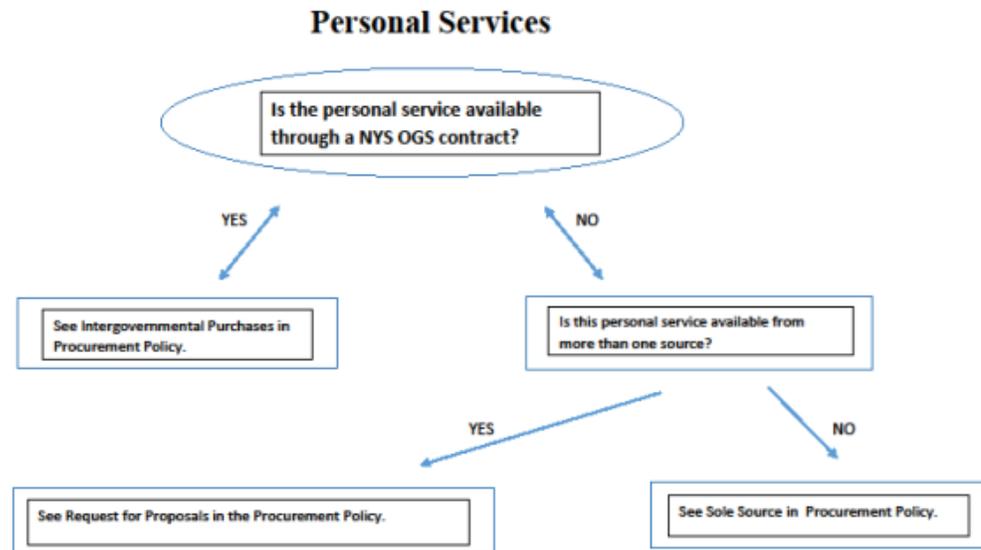
- Determining the Appropriate Procurement Method
 - Procurement Flow Charts



Procurement Procedure Guidelines

Determining the Appropriate Procurement Method

- Determining the Appropriate Procurement Method
 - Procurement Flow Charts



Procurement Procedure Guidelines

Determining the Appropriate Procurement Method

- Procurement Matrix

	Small Purchase	Formal Sealed Bid	DPW Formal Sealed Bid	RFP	Streamlined Method	Intergovernmental Purchases	Preferred Source
Office Supplies	X	X				X	X
Office Furniture/Equipment	X	X				X	X
Computer Hardware and Peripherals	X	X				X	
Computer Software/Systems	X	X		X	X	X	
Facility Maintenance Equipment and Supplies	X	X				X	X
Telecommunications Equipment	X	X				X	X
Telecommunications System	X	X		X	X	X	
Field Equipment/Machinery	X	X				X	
Motor Vehicles		X				X	
Food and Beverages	X	X				X	X
Clothing, Uniforms and Accessories	X	X				X	X
Construction Services			X			X	
Consulting Services	X	X		X	X	X	
Data Processing Services	X	X		X	X	X	X
Financial Services	X	X		X	X	X	
Health Services	X	X		X	X	X	
Legal Services	X	X		X	X	X	

Procurement Procedure Guidelines

Determining the Appropriate Procurement Method

- Solicitation Preparation and Conduct

- Needs Assessment

- What goods and/or services are needed?
 - In what quantities?
 - At what time(s)?
 - Where are the goods/services needed?
 - Service levels required?
 - Are personal services required?
 - Available on a blanket contract?
 - Available on an OGS contract?
 - What is the estimated cost?
 - Operational/logistical issues?
 - Applicable labor or other laws?
 - Licenses/certifications?
 - Market Research
 - What qualified vendors are available to provide the goods/services?
 - What are the various product and service offerings available?
 - Are potential vendors registered?

- Sole source

- If only one qualified vendor is identified, the department may consider whether to process the procurement as a sole source

- Specification Development

- Specifications must answer:

- What specific goods or services are required?
 - Why are the goods or services required?
 - Who requires and will be accepting the goods or services?
 - How must the required goods or services be delivered?
 - Where must the goods or services be delivered?
 - When must the goods or services be delivered?

- Specifications must identify all legal, license, certification, experience, and service level requirements

- Specifications must state every material requirement

- Any requirement not included in the specification cannot be used as a basis for rejecting the bid/proposal
 - Failure to include a material requirement may result in a failed solicitation or acceptance of an offering that does not best suit the County's needs

- For goods purchases, specifications may be based on a brand name bid standard or equal, which must be explicitly stated in the solicitation

Procurement Procedure Guidelines

Determining the Appropriate Procurement Method

- Vendor Outreach
 - Essential for:
 - Market research
 - Identifying disparities between County specifications and offerings in the marketplace
 - Promoting vendor participation in solicitations
 - Requests For Information (RFI)
 - Appropriate for solicitation of new goods or services
 - Similar to an RFP process, but does not result in a contract
 - Intent is to gather market feedback and suggestions that may inform and assist in shaping a new procurement
 - Pre-solicitation Conferences
 - Held prior to advertising a solicitation
 - Provides vendors an opportunity to review a draft solicitation and comment or suggest revisions
 - Useful for complicated procurements
 - Construction
 - Complex services
 - Highly specialized equipment
- Pre-bid Conferences
 - Held after the solicitation is advertised
 - Useful for:
 - Solicitations with complicated requirements
 - Solicitations that elicit many questions
 - Walk-throughs of County facilities
 - Coordination with the Office of Minority Affairs
 - Departments should coordinate with OMA to identify and reach out to:
 - MWBEs
 - DBEs
 - SDVBEs
- Solicitation
 - Solicitation is the period between advertisement and opening
 - Communication between County staff and vendors is limited
 - Official point of contact for the solicitation (the buyer) is solely authorized to communicate with vendors
 - Material responses to vendor inquiries must be shared with all vendors in an addendum
 - Vendors should be directed to the solicitation if possible
 - Requested public information shall be released as an addendum

Procurement Procedure Guidelines

Determining the Appropriate Procurement Method

- Evaluation of Offers
 - Contracts are awarded to the lowest responsive, responsible bidder or most advantageous proposer
 - Evaluation of offers requires:
 - Ranking by :
 - Price (for bids)
 - Evaluation score (for proposals)
 - Affirmative determination by the DCCO that the vendor is responsive and responsible
 - Maintenance of all records in the procurement file
 - Bid Tabulation
 - Solicitations awarded based on price alone require tabulation of all offers indicating:
 - Bid title
 - Solicitation ID number
 - Date of the bid opening
 - Each vendor that submitted a bid and its price(s)
 - Name, title, and signature of the reader of the bids (if formally read)
 - Name, title, and signature of the witness (if formally read)
 - The bid tabulation shall be included in the procurement file
- Check the math of the apparent low bid
 - If math errors are found, create a revised bid tabulation
- Responsive and responsible?
 - Follow Policy if vendor is found to be non-responsive or non-responsible
- Proposal Evaluation Summary
 - Solicitations awarded based on best value (most advantageous combination of cost, quality, and efficiency) require a proposal evaluation summary indicating:
 - Solicitation title
 - Solicitation ID number
 - Date of the solicitation opening
 - Each vendor that submitted a proposal and its summary technical score or overall score and price per the solicitation and the Policy
 - Members of the evaluation committee
 - Date of committee meeting
 - Check the math of the apparent best offer
 - If math errors are found, create a revised evaluation summary
 - Responsive and responsible?
 - Follow Policy if vendor is found to be non-responsive or non-responsible
 - Individual evaluators' scores shall be maintained in the procurement file

Procurement Procedure Guidelines

Determining the Appropriate Procurement Method

- Negotiation of Terms and Conditions
 - The County can always negotiate a better deal with the lowest responsive, responsible bidder or most advantageous proposer
 - Negotiation of terms and conditions other than price are allowed only for awards based on best value
 - Any bid in which the vendor takes exception to terms and conditions in competitive bid solicitations may be rejected as nonresponsive
 - Negotiated modifications to terms and conditions must be within the scope of the solicitation/contract
 - Some may require County Attorney approval
 - Effective negotiation requires an understanding of:
 - The terms and conditions of the contract
 - Existing/past relationship of the vendor and the County
 - Performance history
 - Industry standards and trends
 - The County's "bottom line"
 - Price benchmarks and indices
 - It is important to establish before entering negotiations which elements of the solicitation may or may not be negotiated due to legal, financial, or operational reasons
- Award Justification
 - The DCCO must affirm that the proposed awardee is:
 - Responsive
 - Responsible
 - The one offering the lowest bid or most advantageous offer
 - Any potentially adverse information regarding the proposed vendor's responsibility must be described and addressed to explain why the information is not sufficient basis for a finding of non-responsibility
- Oversight Approval Process
 - The DCCO shall monitor the proposed contract award's progress through the oversight approval process and address expeditiously any issues that arise prior to contract execution

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Required Solicitation Documentation and Oversight Review
 - State law and County policy require open and fair solicitation applying maximum practicable competition
 - The County seeks to obtain the highest quality goods and services at the lowest net cost from qualified vendors with the integrity and capacity to perform as required
 - Any questions regarding the appropriate method of source selection should be addressed to the DCCO and the CPO
 - Use of formal procurement methods:
 - For procurements > \$10,000
 - Formal Sealed Bid
 - Considered the most open and fair competitive method
 - Requires defined units, quantity estimates and costs
 - Publicly advertised and opened
 - Terms may not be negotiated
 - Awarded to the lowest cost responsive, responsible bidder
 - Required for certain solicitations;
 - Goods
 - Construction
- Request For Proposals (RFP)
 - Open competition for services
 - May include goods components as well
 - Solicitation must be carefully written to reflect the County's needs and priorities
 - Awarded to the responsive, responsible proposer offering the best value (i.e. best combination of cost, quality, and efficiency)
 - Evaluator or evaluation committee must apply considerable independent judgment in rating qualitative and cost factors
 - Terms may be negotiated
 - May include vendor presentations and/or Best and Final Offers
 - Detailed documentation and explanation of proposal evaluation and vendor selection are required
 - Appropriate for solicitations where:
 - Fixed unit costs or good quantity estimates are difficult to determine
 - Quality and/or efficiency is of primary importance compared with cost
 - Negotiation may be required
 - The preferred method of service delivery is difficult to determine
 - Questions regarding the use or conduct of an RFP should be directed to the DCCO and CPO

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Streamlined Competitive Proposal Process
 - Truncated version of the RFP process
 - To be used only when there is an urgent need for services that does not justify an emergency purchase
 - Requires pre-approval of the DCCO and the CPO
- DPW Procurements
 - Construction—processed as Formal Sealed Bids
 - Construction-related professional services—processed as RFPs
- Emergencies
 - Most requirements are written into the Charter
 - Justified and authorized by the County Executive to address an immediate threat to life, health, safety, or property of the County, or to protect an essential County service or resource
 - Must be limited to address only the emergency condition
 - Must employ maximum practicable competition
 - To the extent feasible, standard specifications and measures of vendor responsibility must be used
 - Any emergency contract not issued under a formal federal, state, or local state of emergency requires pre-approval of the CPO regarding specifications and competitiveness
 - Questions regarding emergency procurements should be directed to the CPO and the Director of the Office of Purchasing
- Sole Source
 - Inherently non-competitive
 - May subject the County to the demands of the vendor
 - Little leverage regarding price and service levels
 - Due diligence and detailed justification are crucial
 - Reasonable alternatives must be identified and considered whenever possible
 - The County may become locked into future agreements due to the need for:
 - Maintenance and replacement parts
 - Training
 - Operational expertise
 - Expansion of needs due to standardization
 - Scope expansion for related goods/services
 - The vendor may raise prices or lower service levels without notice
 - It may be difficult to obtain alternative goods and services if the vendor ceases provision of the required goods/services

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Factors to consider:
 - Are the goods/services needed to provide or maintain essential County services?
 - If not, reconsider the need
 - Are there alternative, competitive goods and services available that satisfy the needs of the County?
 - Open the specification up if possible
 - Can the need be reassessed to allow for an alternative, competitive solicitation?
 - Is the need too narrowly or broadly defined?
 - What is the price and performance history for the vendor and its goods/services?
 - How do these compare with similar offerings from competitors?
 - Will any additional sole source goods or services outside the scope of the current solicitation be required in the future?
 - What is the backup plan if the solicitation or vendor fails?
 - Preapproval by the DCCO and CPO of the sole source justification is required
 - Notice of Intent must be published ten days prior to initiating negotiations
- Intergovernmental Contracts
 - Includes OGS, GSA, other municipal, and cooperative contracts
 - Offer efficient acquisition of some goods and services at competitive prices
 - The DCCO must certify that all requirements of the underlying contract have been met including competitive mini-bid requirements
 - Government-to-Government Contracts
 - Negotiated outside the solicitation and award process in consultation with the County Attorney in the best interests of the County
 - Preferred Source
 - Per NYS Finance Law, the County is obligated to procure listed goods and services from Preferred Source vendors identified by NYS OGS
 - Prices must be determined to be fair and reasonable

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Procurement Checklists

- Required For All Formal Solicitations

- Routing Sheet
 - Staff Summary
 - Contract/Amendment
 - Exhibit A: Political Campaign Contribution Disclosure Form
 - Exhibit B: Lobbyist Registration and Disclosure Form
 - Principal Questionnaire Forms
 - Business History Form
 - Non-Collusion Certification
 - Reference Checks
 - Consultant's, Contractor's, and Vendor's Disclosure Form
 - Procurement History Summary
 - Comptroller Form
 - NIFA Form
 - Union Notice of Service Solicitation (as applicable)
 - Certification of Funds Availability/NIFS Printout

- Formal Sealed Bidding

- Solicitation
 - Specification
 - Bid
 - Bidders List
 - Bid Tabulation
 - Advertisement
 - Cost Estimate
 - Single Bid Analysis (as applicable)
 - Responsibility Determination
 - Vendor Nonresponsiveness Determination (as applicable)
 - Vendor Nonresponsibility Determination (as applicable)
 - Vendor Appeal (as applicable)
 - Protest (as applicable)
 - Protest Reply (as applicable)
 - Price Justification
 - Recommendation For Award
 - MWBE/Veteran/DBE Goals
 - Contract

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Request For Proposals (RFP)
 - Solicitation
 - Specification
 - Proposal
 - Bidders List
 - Advertisement
 - Cost Estimate
 - Procurement Method Justification
 - Single Bid Analysis (as applicable)
 - Responsibility Determination
 - Vendor Nonresponsiveness Determination (as applicable)
 - Vendor Nonresponsibility Determination (as applicable)
 - Vendor Appeal (as applicable)
 - Protest (as applicable)
 - Protest Reply (as applicable)
 - Price Justification
 - RFP Evaluation Tools—Individual
 - RFP Evaluation Tool—Summary
 - Best and Final Offer
 - Recommendation For Award
 - MWBE/Veteran/DBE Goals
 - Contract
- Sole Source
 - Sole Source Justification
 - Contract
 - Notice of Intent
 - Vendor Response(s) to Notice of Intent and County Response(s)
 - Responsibility Determination
 - Protest (as applicable)
 - Protest Reply (as applicable)
 - Price Justification
 - Recommendation For Award
- Small Purchase < \$500
 - Requisition
 - Written quote
 - Purchase order
- Small Purchase >= \$500 and <= \$10,000
 - Requisition
 - Solicitation
 - Bidders List
 - Bid
 - Bid Tabulation
 - Award Justification
 - Purchase Order

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Direct Purchase Order
- Emergency Contract
 - Emergency Purchase Justification
 - CPO Competitiveness Approval (if applicable)
 - Bidders List
 - Solicitation
 - Solicitation Responses
 - Bid Tabulation
 - Award Justification
 - Contract
- Intergovernmental Contract
 - External Government Contract
 - Solicitation
 - Bidders List
 - Solicitation Responses
 - Bid Tabulation (if applicable)
 - Award Justification
 - Contract
- Government-to-Government
 - Award/Price Justification
 - Contract
 - Consultant's, Contractor's, and Vendor's Disclosure Form
 - No other integrity and disclosure forms are required
- Preferred Source
 - Solicitation
 - Written quote
 - Award/Price Justification
 - Contract

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Vendor Responsiveness

- A vendor is deemed responsive to a solicitation when it has provided all information, pricing, certifications, and other required documentation as required in the solicitation
- Only the apparent low bidder or proposer is evaluated for responsiveness
- Factors to consider:
 - Timely submission of the bid or proposal as required in the solicitation
 - Timely submission of required:
 - Certifications
 - Licenses
 - Insurance
 - Bonds or sureties
 - Vendor integrity and disclosure documents
 - Samples
 - Specifications
 - Original signatures, seals, or notarizations
 - Subcontract information
 - M/WBE, DBE, or SDVBE utilization plans
 - Any other material requirement of the solicitation
- Vendor must be notified in writing of a determination of nonresponsiveness
- Vendor may appeal the determination per the Policy

- Vendor Responsibility

- A vendor is deemed responsible to be awarded a contract when it has demonstrated that it has the integrity and capacity to perform the required services on behalf of the County
- Only the apparent low, responsive bidder or most advantageous proposer is evaluated for responsibility
- Factors to consider:
 - Financial resources
 - Technical qualifications
 - Experience
 - Organization, material, equipment, facilities, and personnel resources and expertise necessary to carry out the work and to comply with required schedules, taking into consideration other business commitments
 - A satisfactory record of performance
 - A satisfactory record of business integrity
 - Where the contract includes provisions for reimbursement of contractor costs, the existence of accounting and auditing procedures adequate to control property, funds, or other assets, accurately delineate costs, and attribute them to their causes
 - Compliance with requirements for the utilization of small, minority-owned, and women-owned businesses as subcontractors
 - Compliance with requirements related to grants or other funding sources

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Sources of information:
 - Vendor integrity and disclosure documents
 - Pertinent databases of debarred, suspended, and ineligible contractors
 - Vendor performance evaluations, as well as verifiable knowledge obtained by County contracting and audit personnel
 - Determinations of violations of employment-related federal, state, or local law or executive order, including but not limited to those relating to equal employment opportunity, prevailing wage, workplace health and safety, employee benefits, and employee wages and hours
 - Information supplied by the prospective contractor, including bid or proposal information, correspondence, financial data, information on production equipment, and personnel information
 - Online searches (e.g. Google)
 - Legal and financial research tools (e.g. Lexis/Nexis, WestLaw, and D&B)
 - Other sources such as news publications, suppliers, subcontractors and customers of the prospective contractor, financial institutions, other government agencies, and business and trade associations
- The buyer must identify, research, and address all material potentially adverse information
- For any potentially adverse information, the vendor must:
 - Explain the circumstances
 - State the status
 - Indicate the corrective action plan or explain corrective actions taken
 - Explain why the information should not prevent award of the contract
- The buyer shall summarize all information for inclusion in the responsibility determination to be approved by the DCCO

Procurement Procedure Guidelines

Required Solicitation Documentation and Oversight Review

- Legislative Review of Contracts

- Rules Committee approval of personal services contracts is required for:
 - Contracts of at least \$1,000 value
 - Contracts with a term more than one year
 - Contracts which would result in the contractor being awarded cumulative contract amounts from the County exceeding \$50,000 in the past 12 months
- Rules Committee approval of goods and non-personal services contracts is required for purchases which exceed \$100,000
- Exceptions to these requirements are listed in the Policy
- Amendments to contracts that were not previously approved by the Rules Committee will require legislative approval if any of the above criteria are met
- Amendments to contracts that previously required approval by the Rules Committee also require legislative approval
- Amendments should be submitted 30 days in advance

- Information required for Amendments/Advisements:

- Purpose
- Method of procurement
- Procurement history
- General provisions of the contract
- Impact on funding/price analysis

- Comptroller Review of Contracts

- Funds availability
- Cost and payables structure is sound
- Determines whether the contract must be submitted to NIFA

- Nassau County Interim Finance Authority (NIFA) Review of Contracts

- Personal services contracts in excess of \$50,000

Procurement Procedure Guidelines

Contract Administration / RFP Boilerplate

- Contract Administration

- Contract Changes

- Contract Amendments

- Used to change the terms and/or the maximum contract amount
 - Document checklist is provided
 - Approval path is similar to the underlying contract's path

- Contract Adviselements

- Used to increase funds in a contract within the previously approved maximum contract amount
 - Reduced documentation and oversight approvals required

- Capital Project Change Orders

- Processed in accordance with DPW's construction procurement policy

- Renewals

- Provide an expedited method of maintaining continuity of services
 - Number and term of any renewal must be stated in the solicitation
 - May be at the sole discretion of the County

- Must be executed in writing

- Include vendor concurrence if necessary

- Price Adjustments

- Allowed only if they are:

- Included in the contract
 - Deemed to be fair and reasonable
 - Determined in writing by the DCCO to be in the best interests of the County

- When feasible, price adjustments should be based on industry benchmarks or indices stated in the solicitation

- Any solicitation including price adjustment language must reiterate that language in the contract unless the vendor waives the terms in writing

- RFP Boilerplate

- Maintained by the County Attorney

- To be used as the template for all RFPs and SCPs

- Establishes a standard structure

- Includes standard terms and conditions

- Aids in solicitation development, response by vendors, proposal review, and contract negotiation and award

Procurement Procedure Guidelines

Q & A