

FEDERAL PROCUREMENT BEST PRACTICES

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**Environmental
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WHAT IS PROCUREMENT?

The process of buying or otherwise obtaining goods or services, typically for business or government purposes and usually on a relatively large scale through purchasing, contracting or competitive bidding

Federal procurement standards ensure:

- ❖ Cost-effectiveness
- ❖ Transparency and accountability
- ❖ Fair and open competition
- ❖ Good faith efforts to support sustainability and social responsibility

FEDERAL PROCUREMENT METHODS AND THRESHOLDS

- ✔ **MICRO-PURCHASE:** Up to \$50,000 – can be made without competitive bidding and if purchases are distributed equitably among suppliers

- ✔ **SIMPLIFIED ACQUISITION:** Up to \$250,000 – obtain informal quotes from at least three suppliers

- ✔ **FORMAL COMPETITIVE REQUIREMENTS:** Above \$250,000 – follow formal competitive requirements through either
 - ❖ Sealed bids (cost)
 - ❖ Competitive proposals (qualifications + cost)



PROCUREMENT METHODS

Micro-Purchase

- ❖ Most Up to \$50,000 without EPA approval
- ❖ Without competition if purchases are equitably distributed
- ❖ Suitable when market competition ensures fair pricing (e.g., supplies)
- ❖ Disadvantaged Business Enterprise (DBE) considerations should be made
- ❖ Thresholds higher than \$50,000 require Federal/EPA approval






PROCUREMENT METHODS

Simplified Acquisition

- ❖ Purchases up to \$250,000
- ❖ Obtain documented prices/quotes from at least three qualified sources without formally advertising
- ❖ DBE considerations should be made
- ❖ Can select higher-priced item or service if:
 - Higher price offers best value
 - Justification is documented

A close-up photograph of a person's hands typing on a laptop keyboard. The laptop is silver and the keyboard is black. In the background, there is a desk with a white mug, a pen, and some papers. The lighting is warm and soft.

PROCUREMENT METHODS

Formal Competition Requirements


- ❖ Over \$250,000
- ❖ Solicit from adequate number of potential contractors
- ❖ May use website announcements or bidder lists
- ❖ Tribal and local governments can use their written procurement policies
- ❖ Must remain open at least 30 days
- ❖ Meet DBE requirements

PROCUREMENT METHODS

Formal Competition 1: Sealed Bids

- ❖ When precise specifications are available, and firm fixed-price contract will be awarded
- ❖ Examples: construction, equipment, or bulk supplies
- ❖ Subject to formal competitive requirements
- ❖ If contract not awarded to lowest bidder, EPA determines if approval required





PROCUREMENT METHODS

Formal Competition 2: Competitive Proposals

- ❖ Use when the offerors' qualifications or technical approaches may be more important than price considerations
- ❖ Award either firm fixed-price or cost-reimbursement contracts
- ❖ Subject to formal competitive requirements:
 - RFPs must be publicized and include selection criteria
 - Technical evaluation method must be documented
- ❖ May use qualifications-based competitive selection for architecture and engineering firms

NOT ALLOWED

- ❖ **Personal or organizational conflicts of interest**
 - Personal – cannot be involved in selection, award, or administration of contract if real or apparent conflict of interest
 - Organizational – parent, affiliate or subsidiary organization must have written standards of conduct on organizational conflicts of interest
- ❖ **Practices that restrict competition**
 - Accepting assistance or templates from contractors planning to bid
 - Imposing unreasonable competition requirements
 - Making noncompetitive awards to consultants
 - Discouraging contractors from submitting offers





REVIEW

Procurement Best Practices

- ❖ Federal procurement following EPA guidance doesn't require EPA approval
- ❖ EPA approval needed when:
 - Micro-purchases exceed \$50k (or use simplified acquisition)
 - Lowest-priced vendor/service not selected (justification must be provided to EPA)
- ❖ Share details of process with EPA PO before/during/after procurements
- ❖ Consider BABA and DBRA requirements and include clauses in RFPs, bids, contracts to selected contractors

Build America Buy America (BABA)

- ❖ Iron, steel, manufactured products, and construction materials used in federally funded infrastructure projects must be produced in the United States

Davis Bacon and Related Acts (DBRA)

- ❖ Requires payment of prevailing wages on construction contracts over \$2,000
- ❖ Prohibits contractors or subcontractors from coercing employees to forgo wages
- ❖ Requires overtime pay for hours worked beyond the standard

EXAMPLE PROCUREMENT SCENARIO

- ❖ Scope: Design and build a 15,000 sq. ft. LEED Gold-certified community center with an electric shuttle and charging station
- ❖ Contract Value:
 - Design Contract = \$280,000
 - Construction Contract = \$1,500,000
- ❖ Relevant info:
 - First bid package will be issued March 1, 2025
 - You interact with VP of a company planning to bid



EXAMPLE PROCUREMENT SCENARIO

- ❖ What procurement method(s) should be used?
 - Competitive proposals for the design contract
 - Sealed bids for the construction contract
- ❖ Can the selected design firm provide templates for the construction contract?
 - Yes, design firm can provide templates and support if firm is not bidding on construction contract
- ❖ When is the earliest the first bid package can close?
 - March 31, or 30 days after the public bid opens
- ❖ What requirements should be in the bid?
 - Experience with LEED, electric vehicle charging, and design of community centers





Tips for Procurement in the Current Climate

- ❖ Simplified acquisition is quicker than open bidding; keep contracts under \$250,000 if possible.
- ❖ Prioritize contractors capable of efficient implementation, prompt billing, quick contracting, strong administration, and bulk purchasing ability.
- ❖ Group contracts by trade and use micro-purchases and simplified acquisitions when possible.
- ❖ Always account for BABA requirements and include them in contract flow-down clauses.
- ❖ For competitive proposals, prioritize thorough documentation of selection criteria, scoring, and the contract process.
- ❖ Work with your in-house counsel or L4GG to limit liability around BABA and DBRA compliance by shifting risk to subcontractors.



QUESTIONS?

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