

CPPB Certification Preparation

CPPB Online Prep Class

Domain II

Domain II: Sourcing

Knowledge statement overview

We will discuss:

- Procurement types and techniques
- Research and analysis
- Laws regarding sourcing
- Specifications
- Contracts
- Solicitation process
- Protests and hearings
- Debriefing
- Award process
- Contract approval process





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Using Order History

- Historical files provide information on specifications, pricing, contract types, etc.
- Know when to take a fresh look – new technologies, new market conditions





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Scope of Work

- Scope of Work (created by the entity) vs. Statement of Work (response by the supplier)
- Primarily used in
 - Requests for Proposals
 - Solicitations for services
 - Complex combinations of products and services
 - Performance based contracts



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Procurement Methods and Techniques

- Solicitations based on lowest responsive, responsible bidder
 - IFB (Invitation for Bid)
 - RFQ (Request for Quotation)
 - Informal solicitation
- Solicitations based on best value
 - RFP (Request for Proposal)
 - ITN (Invitation to Negotiate)
 - RFQu (Request for Qualifications)



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Procurement Methods and Techniques (cont'd)

- Information gathering techniques
 - RFI (Request for Information)
 - LOI (Letters of Interest)
 - Pre-solicitation conference
- Other types of solicitation methods
 - NOI (Notice of Intent)
 - Small Dollar / pCard
 - Emergency Procurement
 - Sole Source Procurement
 - Single Source Procurement



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Total Cost of Ownership (TCO) Life Cycle Costing (LCC)

TCO: the sum of all fixed and variable costs attributed to a product or service.

Life Cycle Costing (LCC): total cost of ownership over the life span of the asset including disposal costs and residual value.

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Total Cost of Ownership Life Cycle Costing

Consider the following items:

• acquisition price (including shipping)	• cost of supplies and operating manuals
• cost of future upgrades	• security costs
• licensing fees	• utility and insurance costs
• maintenance costs	• installation costs
• site preparation costs	
• training costs	

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Total Cost of Ownership (TCO) Life Cycle Costing (LCC)

TCO/LCC is most appropriate when:

- the original purchase price of asset is high
- life cycle is long
- operating costs are large
- energy consumption or maintenance costs significant throughout the life of the asset
- Required on Federal Government large capital asset equipment purchases

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Total Cost of Ownership (TCO)
Life Cycle Costing (LCC)

<p><u>4 cylinder car</u> \$24,000</p>	<p><u>8 cylinder SUV car</u> \$20,000</p>
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TOC/LCC consideration elements:

1. Gasoline (cost itself plus miles per gallon usage)
2. Insurance cost
3. Maintenance costs
4. Car registration fee
5. Residual trade-in value
6. **Sensitivity Analysis:** green environmental factor
7. **Risk Analysis:** manufacturer going out of business (GM/Chrysler), product obsolescence/new technology

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Make, Lease or Buy Concepts

Four step process:

1. Define the outputs being analyzed
2. Determine costs that will be saved if the requirement is outsourced.
3. Compute the costs of contracting from the private sector
4. Compare the difference and make decision

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Leasing Considerations

- Purchase price vs. sum of lease payments
- Cash flow vs. interest rates
- Funding source – how long will it be available to the agency
- Financial statements ramifications
- Life expectancy of item
- Duration of need for the equipment
- Obsolescence rate
- Hazardous item

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Market Research

Collecting and analyzing information about capabilities within the market to satisfy agency needs. The results of market research are used to arrive at the most suitable approach to acquiring, distributing and supporting supplies and services.



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Four Step Process for Market Research

1. Market surveillance
2. Investigation
3. Identification
4. Procurement of the product / service



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Market Research Priorities

Particular items and/or services must be prioritized to determine which should be researched. Some criteria used to make this decision include:

- large dollar items
- items that have unusual cost and price characteristics or market fluctuations,
- anticipated delivery problems
- quality considerations
- complexity of the items/services being procured

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Elements of a Buying Plan

- **Demand Analysis** – anticipated agency material requirements
- **Market Analysis** – overall market conditions/ trends
- **Supplier Analysis** – assessment of specific suppliers
- **Value analysis** – reviewing specifications to remove unnecessary costs in order to satisfy the function at lowest price to the agency


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Internal Service Providers

- Information Technology (IT)
- Legal
- Telecommunications
- Human Resources
- Budget
- Finance/Accounting
- Fleet
- Procurement


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Purchasing Functions

Service function

- Serves client department by providing them with procurement services so clients can focus on their core responsibilities and mission

Staff function

- Advise and assist management and client departments by providing market conditions, "make or buy" decisions, provides new products (Staff Advisor)

Line function

- Acts as an individual department conducting procurement business
- Primary point of contact in doing business with the agency (Law of Agency)
- Inventory management
- Warehousing
- Shipping & receiving


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Various Methods of Supply

Alternatives to simply purchasing an item:

- Central store vs. JIT (Just In Time)
- Controlled goods considerations
- Purchasing hazardous materials
- Inventory management / lead time / recovery
- Re-using and recycling, purchasing used equipment, trade-in provisions



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Requisition Approval Process

Basic checklist for evaluating the purchase requisition:

- Review for completeness and budget/approval authorizations.
- Review for clarity of the requisition.
- Evaluate the existing supply (if stocked).
- Determine the potential to bundle items requisitioned with similar requisitions to achieve a volume discount.
- Evaluate potential sources to acquire the needed goods and/or services.



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Established Laws, Policies and Procedures

- Sources of procurement laws
 - **Statutory** – written constitution, statutes, ordinances
 - **Administrative** – written rules and regulation developed by regulatory governmental agencies
 - **Common** – based on customs and traditions of English settlers and codified into legal system
- Anti-competitive practice laws
 - Price fixing
 - Territorial market allocation
 - Some types of tying arrangements
 - Bid rigging
 - Dumping
 - Exclusive dealing



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Government's Authority to Contract

- **Law of agency** – Body of law that governs agents
- **Principal** – A person who has authorized another to act for him/her.
- **Agent** – is someone authorized to act on behalf of and bind another called the principal
- **Types of authority:**
 - **Express** – give authority to Chief Procurement Officer to enter into contracts ("actual authority")
 - **Implied** – necessary and logical extensions of agent's assigned duties
 - **Apparent** – agent has not been granted express authority to act on behalf of the principal

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What is a Specification?

- A specification is a purchase description
- Tells what end product should look like or what it must do
- Provide a method of determining if the need is satisfied

Specifications Must Be:

- Accurate
- Clear
- Concise
- Unrestrictive
- Fosters competition
- Reasonable
- Representative of the need or facts

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Purpose of a Specification

- Identifies the **minimum** requirement
- Identifies characteristics of performance or quality
- Enables responses to be evaluated equally
- **Maximizes** competition
- Compares products against stated requirements
- Be relevant to the application
- Accurately describes the product or job to be performed

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Importance of Specifications

- Critical to the planning process
- Who relies on good specifications?
 1. Internal customers/Clients
 2. Buyers
 3. Suppliers
 4. Ultimate end user of product or service (client department and taxpayers)


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Types of Specifications: Design Specifications

- Describes how the item to be procured is constructed or manufactured
- Often restricts competition
- Often complex & expensive to prepare
- May limit innovation
- “Burden of Risk” shifts to the Buyer


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Types of Specifications: Performance Specifications

- Also called “functional” specifications
- Describe what and how the product or service must execute the desired operation in order to achieve a specific result or outcome.
- Should allow for tolerances
- Determine the quality of the product/service
- “Burden of Risk” shifts to vendor


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Types of Specifications:

Combination Specifications

- A combination specification incorporates the features of both performance and design, also includes brand names.
- Example: fire truck, police car





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Types of Specifications:


Brand Name Specifications "Or Equal"

- Identifies a product manufactured by a specific firm, includes make, model, part number and specific product information, but allows for all other known brands of other manufacturers to be considered ("Or Equal").
- Are established through labeling and become industry standards
- Brand name should be avoided unless the words "Or Equal" are used
- Brand name should not be identified as the preferred product



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Ohio Administrative Code (OAC)
"Or Equal" Status of Material
125:5-1-19 Specification authority.

(A) The department of administrative services shall have authority to prepare specifications for procurement of supplies, services, and information technology.

(B) The department may delegate to the state agency the authority to prepare specifications.

(C) The department or state agency authorized to prepare said specifications may enter into a contract for preparation of specifications as long as there is no substantial conflict of interest and it is in the best interest of the state. Such contractor may not provide a response or proposal on the project for which the contractor prepared specifications. The department retains authority to review, edit, and give final approval of the specifications to ensure that the specifications are not restrictive, reflect current industry trends and promote open competition.

(D) A specification is a description of the supplies, services, or information technology that is to be purchased and what the bidder or offeror must be responsive to in order to be considered for an award of a contract. A specification may fall under one of the following categories:


- (1) design specification
- (2) performance specification
- (3) combination specification (design and performance)
- (4) brand name or approved equal specification
- (5) qualified products list

(E) A specification shall not include such items as the contract terms and conditions of sale, a requirement for time or place of bid or proposal opening, time of delivery, payment, liquidated damages, or qualification of bidders.

(F) A design specification may be used when it is necessary to define the need in very prescriptive terms. A design specification must include specific details of how the item is to be manufactured to meet the needs of the agency and may include engineering plans, drawings, or blueprints.


(G) A performance specification may be used to describe the general performance characteristics required to achieve an end result or desired outcome. A performance specification does not require the bidder or offeror to comply with specific design requirements.

(H) A combination specification may be used when it is necessary to incorporate, to the extent practicable, attributes of both design and performance specifications to meet the required need.



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State Administrative Code (SAC)
2015 Revised Code

Continued

- (I) Brand name or approved equal specifications may be used when it is not practicable or cost-effective to prepare a design, performance, or combination specification or when time is critical and does not permit creation of a design, performance or combination specification. A brand name or approved equal specifications is used to establish a baseline of measurement for the supplies, services, or information technology being purchased. Use of a brand name or approved equal specification requires a minimum of two manufacturers to be considered as competition. Any brand name or approved equal that is offered in response to the bid or proposal, and that meets or exceeds the baseline of measurement, will qualify for award of a contract.
- (J) A Qualified Products List (QPL) is a list of supplies, services, or information technology that have been examined and tested and determined to have satisfied all applicable specifications and requirements of the agency. A QPL is used to restrict bidders and offerors to those products appearing on the list. A QPL may be used when time does not permit development of a specification or when it is determined to be in the best interest of the state to use a QPL. A minimum of two manufacturers of equivalent supplies, services, or information technology must be solicited for inclusion on a QPL. Examination and testing of the item or services may be completed by the state or by any independent testing facility as determined by the department of administrative services. Use of a QPL requires prior approval from the department of administrative services.
- (K) Brand specific specification is restrictive in that only the listed brand will satisfy the need and may only be used when authorized by the department of administrative services. A brand specific specification may be used only when:
 - (1) The identified brand name is the only brand that is capable of satisfying the need; or
 - (2) The identified brand name is a component of an existing item and it is not possible to use an item from another manufacturer to meet the need; or
 - (3) The agency maintains a sufficient inventory of items of one manufacturer and it is not cost-effective to purchase and inventory equivalent items from different manufacturers; and
 - (4) A minimum of two qualified authorized stocking distributors are available to provide the required brand specific supply or service. If such are not available, purchases must be completed pursuant to section [127.16](#) of the Revised Code.

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Types of Specifications: Qualified Products List (QPL)

QPL-products and services are **evaluated in advance of the solicitation process** through various methods, such as laboratories, application testing, work in process, and product trials. Must be open competition within the QPL approval brands only.

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Types of Specifications: Commercial Standards

- Detailed descriptions of commodity items that are standardized such as nuts and bolts, electrical and plumbing components
- Describes the specifications, quality of material and workmanship used during the manufacturing of the item.
- All items using commercial standards must meet the same item specifications (example: Grade 5 bolts regardless of manufacturer are made to the same industry product specifications)

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Commercial Grade Bolts



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Bolt Head Markings



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Selecting the Appropriate Contract Types

Contracts for Volume Purchases

- Blanket contracts
- Term contracts
- Scheduled contracts
- Systems contracts


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Contracts for Volume Purchases

- **Blanket Contracts**
 - To supply items or services on an "as needed basis", often on an over-the-counter basis.
 - Typically used when the exact items or services cannot be specifically enumerated.
 - Used for a specific time period and includes a maximum amount of money at one time or within a specified period of time or both.


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Contracts for Volume Purchases


- **Term Contracts**
 - Establishes a source of supply and pricing for specified items or services for a specified period of time.
 - Usually based on indefinite or estimated quantities to be ordered as needed.
 - Can also specify definite quantities with deliveries scheduled throughout the contract period.
 - Typically, term contracts require the organization to order any requirements it has from items covered by the contract from the term contract vendor.


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Contracts for Volume Purchases

- **Scheduled Contracts**
 - Consolidates organizational requirements by pre-establishing a bid opening date, such as on a monthly or quarterly basis, etc.
 - Purchasing advises internal customers of these dates and requires them to submit their requirements to purchasing by a specified time.
 - Purchasing consolidates internal customer's needs under a single solicitation and establishes contracts to fulfill those requirements.
 - Schedule contracts establish prices for definite items and quantities with specified delivery requirements.


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Contracts for Volume Purchases

Systems Contracts

- Extension of and a more sophisticated version of Blanket Orders.
- Used to reduce excessive use of small orders and or the need to carry inventory.
- Establishes a source of supply for a specified period of time for a large group of related material items.
- Items to be purchased are typically described in detail in a catalog that becomes part of the contract.
- Estimated quantities and a fixed price for each item are usually included.



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Contract Pricing Strategies

- **Fixed Price**
 - Firm-fixed price
 - Fixed price/Economic Price Adjustment (EPA)
 - Fixed price incentive (FPI)
- **Cost reimbursement**
- **Cost sharing**
- **Cost plus fixed fee**
- **Cost plus percentage of cost**
- **Cost plus incentive fee**
- **Time and materials**



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Contractual Terms and Conditions

- Ts & Cs – The heart of the contract
- Define/describe rights and obligations
- Boilerplate terms
- Special Clauses and Provisions



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Special Terms and Conditions

- Pricing terms selected by the entity
- Method of award
- Risk management requirements
- Shipping and delivery requirements
- Performance requirements
- Reporting requirements
- Product related information requirements
- Administrative issues, e.g., extensions and renewal options, debriefing, sub-suppliers, etc.

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What is the Meaning of F.O.B.?

- F.O.B. – Free On Board
- First, when passing of title to the goods occurs
- Second, determines who pays and bears the cost of the transportation


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F.O.B. Contract Terms


- F.O.B. Point of Origin, Freight Collect
- F.O.B. Point of Origin, Freight Prepaid and Allowed
- F.O.B. Point of Origin, Freight Prepaid and Added
- F.O.B. Destination, Freight Collect
- F.O.B. Destination, Freight Prepaid and Added
- F.O.B. Destination, Freight Prepaid and Allowed

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F.O.B. Contract Terms			
Freight Terms	Customer Takes Title of Goods	Customer Responsibilities	Vendor Responsibilities
F.O.B. Point of Origin, Freight Collect	At point of origin or factory	Pays freight Bears freight Owns goods in transit Must file claims for loss, damage or overcharges	
F.O.B. Point of Origin, Freight Prepaid and Allowed	At point of origin or factory	Owns goods in transit Files claims	Pays freight Bears freight
F.O.B. Point of Origin, Freight Prepaid and Added	At point of origin or factory	Bears freight Owns goods in transit Files Claims	Pays freight and Adds freight to invoice


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F.O.B. Contract Terms			
Freight Terms	Customer Takes Title of Goods	Customer Responsibilities	Vendor Responsibilities
F.O.B. Destination, Freight Collect	At destination	Pays freight Bears freight	Owns goods in transit Files claims
F.O.B. Destination, Freight Prepaid and Added	At destination	Bears freight	Pays freight Adds freight to invoice Owns goods in transit Files Claims
F.O.B. Destination, Freight Prepaid and Allowed	At destination		Pays freight Bears freight Owns goods in transit Files claims


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<p>Why do Buyers use the contract term F.O.B. Destination, Freight Prepaid and Allowed?</p> <p>F.O.B. Destination point is New York City using terms: F.O.B. Destination, Freight Prepaid and Added or F.O.B. Destination, Freight Collect</p>		
<p>Supplier A</p> <p>Quoted \$9,000</p> <p>Los Angeles</p> <p>Freight \$400</p> <p>Landed \$9,400</p>	<p>Supplier B</p> <p>Quoted \$9,025</p> <p>Miami</p> <p>Freight \$350</p> <p>Landed \$9,375</p>	<p>Supplier C</p> <p>Quoted \$9,050</p> <p>Boston</p> <p>Freight \$200</p> <p>Landed \$9,250</p>
<p><u>F.O.B. Destination, Freight Prepaid and Allowed</u></p>		
Quoted \$9,400	Quoted \$9,375	Quoted \$9,250


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Small Purchases

- 80/20 rule
- Defined by each agency
- Simplified procedures
- Use of P-Cards
- Request for Quote (informal)




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Informal Bids/Competitive Quotes for Small Dollar Purchases

This type of solicitation has the following characteristics:

- small dollar value purchases under agency formal bidding threshold
- generally, low risk purchases
- usually not advertised
- receive verbal quote, fax quote, email quote
- informal receiving of quotes with no formal public opening of bids.

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Competitive Sealed Bids and Proposals

Common elements:

- Established dollar threshold
- May be high cost solicitation
- Requirements for competition are stringent
- High supplier and public interest

Competitive Sealed Bid

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Competitive Sealed Proposal

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Competitive Sealed Bids and Proposals

Common steps:

- Public advertising
- Security until opening
- Pre-bid or pre-proposal conference

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Solicitation Requirements

- Must clearly, accurately and completely describe the agency's requirements
- Avoid unnecessary restrictive specifications or contract Ts&Cs that would unduly restrict and limit competition
- Allow enough time for suppliers to respond to your solicitation

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What's in a Solicitation?

- General bid/proposal standard clauses
- Instructions to bidders (suppliers)
- General and special conditions
- Specification/scope of work and proposed schedule
- Bid submission/proposal form(s)

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Competitive Sealed Bid (ITB/IFB)

- Clearly defined specifications and award method:
Award Item-by-Item; Award by Group; Award in the Aggregate
- Price and price related factors only
- Defined procedure
- "Lowest Price" (Good Value)
- Public bid opening



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Competitive Sealed Bidding Process

- Preparation of the invitation for bids (IFB)
- Publicizing and issuing of the IFB (advertise in newspapers, Internet, etc.)
- Submission of sealed bids by prospective bidders
- Formal bid opening
- Contract award is made to the lowest responsive and responsible bidder based on price (good value)

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Formal Procurements - RFP

Request for Proposal - Competitive Sealed Proposal

- Agency defines needs
- Contractor defines solutions
- RFP Evaluation Process
- Awarded based on "best value" and not always the lowest price.

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Requests for Proposal (RFP)

When are RFPs used?

- Market uncertainty and risk
- Expectation of discussions
- Desired solution is flexible
- Awarded based on **“best value”**
- Specs tend to be performance based



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RFP Process

Similar to IFBs, except:

- Evaluation criteria developed
- Use of selection committee process
- Determination of competitive range
- Discussions/oral presentations
- Negotiations



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Bid versus RFP Comparison Chart Prep Guide Page 85

Comparison of Competitive Sealed Bids and Competitive Sealed Proposals		
Activity/Description	Competitive Sealed Bids	Competitive Sealed Proposals
When to Use	When specification or statement of work is well-defined	When government looks for each proposer to develop and provide ideas or solutions
Type of Specifications	Any type	Preferably performance
Opening	Public; price announced; all data available to other bidders and the public	Public; only names of proposers are read; no pricing or other data made available (subject to local laws)
Evaluation	Based strictly on technical specifications; NO material changes allowed	Based on quality with multi-criteria evaluation committee assigning weighted values to various parts of each proposal
Discussion	None	Discussions may ensue with each proposer to determine understanding of proposal requirements
Negotiations	None	Each qualified supplier may be requested to submit a Best and Final Offer as a result of the in-depth review
Award	Lowest Responsive and Responsible Bidder	Best Value Proposal, not necessarily the lowest price



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Competitive Negotiations

Invitation to Negotiate (ITN): A competitive negotiation process that is used when the procurement authority deems it is in their best interest to negotiate with Offerors to achieve "best value". A short list of acceptable proposers is created. Two negotiation methods are allowed: single negotiation and concurrent negotiation.

- Any and all contractual terms may be subject to negotiation



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Non-Competitive Purchasing

- Should be avoided whenever possible
- Notice of Intent (NOI)
- If used, should require high level of agency approval
- Limits Competition
- Fosters protests



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Non-Competitive Awards

Non-Competitive Awards

- Sole Source
- Single Source
- Emergency procurements
- Procurement Code exemptions (legal exceptions)



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Sole Source Procurements

- One vendor possesses the unique ability to meet a particular requirement of the agency's solicitation as a result of a proprietary right such as a patent, copyright, intellectual property right which creates an inability to obtain competition.



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Single Source

- A procurement decision made by the agency to do business with one vendor.
- With **solid justification**, purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.



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Emergency Purchasing (Exigency Purchase)

- Valid emergency purchase – a purchase made due to an unexpected and urgent request where health, safety or the conservation of public resources is at risk; usually formal competitive bidding procedures are waived.
- Good judgment is required along with detailed documentation and agency approvals to support the emergency purchase
- Failure to plan properly does not constitute an emergency.



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Cooperative Procurement

- The action taken when two or more entities combine their requirements to obtain advantages of volume purchases including administrative savings and other benefits.
- A variety of arrangements whereby two or more public procurement units purchase from the same supplier or multiple suppliers using a single IFB or RFP.
- Cooperative procurement efforts may result in contracts that other entities may "piggyback".



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Cooperative Procurement

- Laws and regulations must allow for participation in cooperative procurement
- Entity that issues the solicitation must indicate that the other entity will use the contract
- Solicitation must comply with advertising requirements of each participating entity



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Professional Services Procurement

Commonly applied to A&E (architectural and engineering) services

Acquisition methods:

- Request for Proposals
- Request for Qualifications – Some jurisdictions require the use of RFQu for A&E services




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Construction Procurement

- Laws and procedures that apply specifically to construction procurement
- Highly complex contracts
- High dollar values
- Funding can capital outlay and often other funding
- Highly visible and potentially controversial projects
- Rise of sustainable/green building


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Project Delivery Methods

- Design-bid-build
- Design-build
- Construction manager at risk
- Job Order Contracting




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Pre-Solicitation Conference

Before the solicitation is prepared

- Use of Request for Information (RFI)
- Gathers information used in the solicitation
 - New goods and services
 - New technologies
 - Strength of the market



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Pre-Bid/Pre-Proposal Conference Considerations

- An opportunity for open dialog with supplier community before supplier response to solicitation
- Timing of the conference
- Logistics of conference
- Meeting attendance
- Protocols during conference
- Recording the meeting
- Written follow-up of meeting notes

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Pre-Bid/Pre-Proposal Conference Considerations

- Value of the conference
 - "Sanity check"
 - Identify problems
 - Clarify
 - Force problems to the surface
- Written follow-up of meeting notes issued
- May amend the bid solicitation/RFP after the conference

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Solicitation Process

Issuing solicitations

- Adequate number of suppliers competing
- Advertise widely


Addenda

A written change, addition, alteration correction or revision to a solicitation.

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Public Bid Openings

- Key to maintaining integrity of the process
- Chief Officer establishes strict policies
 - Time stamped
 - Recorded in log
 - Locked
- Bid opening
 - No late bid policy
 - Develop a bid tabulation sheet

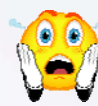


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Mistakes in Bids

- Bids may be returned for correction before the public opening.
- Minor corrections may be made after the opening and before the award.
- Mistakes brought to light after the award – bidder still responsible for the work.



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Minor Informalities

- Failure to provide required information regarding firms qualification
- Failure to provide required catalog sheets
- Failure to provide references
- Failure to provide required copies of bid/proposal
- Failure to sign the bid as long as intent is shown on the part of the bidder

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Evaluation Techniques

The Procurement Official must reject any bids or proposals that fail to comply with the solicitation in any material manner.

What does this mean?

What is a Responsive and Responsible supplier?



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Responsive Bidder

- A supplier that has submitted a bid or proposal that fully conforms in all material respects to the IFB/RFP and all of its requirements and has not taken any exceptions to the terms and conditions of the solicitation nor has added any of its own terms and conditions.



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Responsible Bidder

- A supplier that has the capability to fully perform the contract requirements and the experience, integrity, perseverance, reliability, capacity, facilities, equipment, financial credit, necessary licenses and permits that will reasonably assure a good faith performance.





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Evaluation of Bids/Proposals

- Responsive
 - Bid/proposal conforms to all material aspects of solicitation
- Responsible
 - Financial capability
 - Management capability
 - Past history
 - Integrity




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Examples of Non-Responsive Bids/Proposals

When suppliers:


- Fail to meet required delivery
- Substitute own terms and conditions
- Qualify their offer (e.g. "All or None")
- Make bid/proposal contingent upon receipt of other awards
- Failure to meet specs
- Limit rights of government
- Fail to conform to submission requirements


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Award Criteria


Two or more qualified bidders:

- The bids are responsive to the solicitation requirements
- The bidders have competed independently for the award (no collusion)
- The bidder submitting the lowest offer does not have an unfair advantage over the competitors (having received inside bidding information from the buyer)
- The lowest evaluated price is reasonable based on the terms and conditions of the IFB


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Price Analysis

- The comparison of prices received against known prices.
- Does not look at elements of supplier's cost
- Sources of known prices
 - Contract files
 - Market research
 - Internet
 - Catalogs



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Price Analysis

How do you determine whether historical prices are still valid for comparison?

- How have conditions changed? (quantity, one-time buy versus long-term contract)
- Were there one-time engineering, setup, or tooling charges?
- What should be the effect of inflation or deflation on the price?

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Elements of a Vendor's Price

Cost	Packaging
Supply/Demand	Just-In-Time
Competition	Payment Terms
Profit	Obsolescence
Product Differentiation	Service/Tech Support
Quantity	Length of Contract
Quality & Specifications	Buyer Creativity
Transportation (F.O.B.)	Seasonal/Perishable

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Payment Types

- Advance payments
- Partial payments
- Progress payments
- Milestone payments
- Incentive contracts
- Retainage




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Protest

Protest – a written objection by a potential interested party to a solicitation or award of a contract, with the intention of receiving a remedial result; must be filed in accordance with agency policy and procedure within predetermined time lines




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Protest Processes

- Review protest with appropriate legal counsel
- Draft and circulate response letter
- Mail protest response by registered mail, return receipt requested



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Debriefing

Debriefing: A practice used primarily during the Request for Proposal process, whereby the contracting authority will meet with those parties whose proposals were not deemed appropriate for award. It is viewed as a learning process for proposers who may gain a better understanding regarding perceived deficiencies contained within their submitted proposal.

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Debrief Processes and Procedures

Post-award debriefing may include:

- Weaknesses or deficiencies of the proposal
- Overall evaluated cost or price
- Overall ranking of all proposals
- Summary of award rationale
- Responses to questions

Never make a point by point comparison of the solicitations

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How is a Contract Organized?

- Description
- Caption
- Transitional language
- Recitals
- Definitions
- Operative language
- Obligations
- Representatives and warranties
- Declarations
- Closing

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What is a Standard Boilerplate?


- Terms and conditions basic for every contract, established as standard boilerplate.
- Legal issues become standard Ts&Cs.
- Local/State or Provincial/Federal laws and Grants can affect standard boilerplate language.

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How are Terms and Conditions Included?


- Full text
- By reference




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Guidelines for Writing Good Contracts

- Plain language
- Present tense
- Clear, coherent, consistent language
- Readable typeface
- Active voice
- Use cross references



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Award Recommendation Process

- | | |
|--|-------------------------------------|
| 1. Review results | 7. End-user sign-off |
| 2. Complete selection | 8. Finance Office/Funding |
| 3. Prepare evaluation committee report | 9. Executive approval |
| 4. Review solicitation process | 10. Governing Body/ Board Approvals |
| 5. Award approval | 11. Award to successful offeror |
| 6. Evaluation committee recommendation | 12. Announce the award |



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Contract Approval Process

- Legal - legal review of contract per agency guidelines
- Risk management – review by risk manager to assess risk factors
- Health and Safety – compliance with laws, policies and guidelines for worker health and safety



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Types of Contract Risk

- **Proposal risk.** Do the contract document and the specifications adequately describe the desired service or goods?
- **Surety/liability risk.** Does the contract document adequately protect the jurisdiction's financial and legal interest?
- **Contractual risk.** How will disputes and contract changes be handled?
- **Schedule risk.** What are the delivery time period requirements?
- **Performance risk.** How is acceptance defined?
- **Price risk.** What are the payment terms?





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Domain II: Sourcing Wrap-up

- Wrap-up
- Questions?



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