

Procurement



Procurement

- Process to obtain goods and services
- 29 CFR 97.36
 - States & other governmental grantees
- 29 CFR 95.40-48
 - Nonprofits, commercials, higher education, & hospitals
- Applies to grantees and subgrantees
- Full & open competition



Procurement Standards

- Written procedures
- System to ensure performance
- Written code of conduct
- Procedures to review procurements
- Process to promote use of intergovernmental agreements/common goods & services



Procurement Standards

- Cost or price analysis
- Awards only to responsible parties
- Documentation of award
- Settlement process and protest procedures
- Use of small businesses, minority- & woman-owned businesses (Part 95 only)



Procurement Methods

- Fair and open competition
 - 29 CFR 97.36(c) & 95.43
- Methods – 29 CFR 97.36(d)
- No methods specified in Part 95
 - Follow methods of Part 97
 - No prior approval for small purchase procurements



Procurement Method

- Small Purchase Method
 - Federal threshold – \$100,000
 - Rate comparisons
 - Price is primary consideration
- Sealed Bids Method
 - Complete Specification of goods and services
 - Requested through an Invitation for Bid

Procurement Method

- Competitive Proposal
 - Price is not primary consideration
 - Fixed-price or cost reimbursement
 - More than one bidder
 - Use of Request for Proposal (RFP)
 - Publicized
 - Method to conduct technical evaluation
 - Awards based on price and program factors

Procurement Method

- Non-Competitive (Sole-Source) Proposals
 - Only if other methods infeasible
 - Available from one source
 - Public emergency precludes competition
 - Awarding agency authorized
 - Competition determined inadequate



Procurement Method

Non-Competitive Proposals

- Cost analysis required
 - Verification of cost data
 - Evaluation of costs & profit
- Profit separately negotiated
- Fixed-price or cost reimbursement



Contract Clauses

- Agreements
 - Fixed-price or cost reimbursement
- Every agreement must contain clauses
- 29 CFR 97.36(i)
- 29 CFR 95.48
- 29 CFR Part 95, Appendix A



Contract Clauses

- Breach of contract
- Termination for cause or convenience
- Access to records
- Reporting requirements
- Record retention requirement
- Applicability of regulations
- Audit Requirements
- Patent rights, copyrights, rights in data

Contract Clauses

- EEO Requirements of CFR 33 and 37
- Clean Air Act, Clean Water and EPA Regulations
- Energy Conservation Act
- Byrd Anti-Lobbying Amendment (Part 93)
- Debarment and Suspension requirements (Part 98)