



TEXAS DEPARTMENT OF AGRICULTURE  
**COMMISSIONER SID MILLER**

**Texas Community Development Block Grant Program  
Administrative, Planning and Engineering Procurement  
Administrators Workshop**



# Essence of Good Procurement

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## **Good procurement must ensure that it:**

- Identifies and specifies the standards for the goods or services
- Seeks competitive offers
- Clearly states the responsibilities of each party
- Promotes the use of SBE, MBE, WBE and Section 3
- Contains quality assurance and oversight systems

**SOURCE: Chapter 5: Procurement Procedures**



# Framework for competitive procurement

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- Must ensure **full and open competition**
- Procurement must be carried out in a fair, uniform and thorough manner to ensure that federal, state and local requirements were met
- Records must include:
  - ✓ *Rational for method of procurement;*
  - ✓ *Solicitation/response;*
  - ✓ *Evaluation and selection criteria;*
  - ✓ *Contractor selection or rejection; and*
  - ✓ *Basis for the cost or price*
- Grant Recipients must adhere to all applicable state, federal and local requirements regardless of the source of funds



# Eligible Costs

TDA reimburses (for \$500k awards):

- **General Administration:** up to 16% of grant construction/acquisition funds or \$55,000, whichever is <
- **Engineering:** up to 25% of grant construction/acquisition funds or \$75,000, whichever is <

TxCDBG funds and matching funds = not allowable for costs prior to TxCDBG grant start date EXCEPT for eligible pre-award costs

Activities	Timeframe	Eligible Cost?
Application prep	Prior to application deadline	No
Pre-award costs (Admin/Planning + Engineering)	After application deadline but before grant agreement start date	Only with pre-agreement
Implementation	After grant agreement start date	Yes



# General Competitive

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- **Competitive procurement required for:**
  - Services paid in-whole or in-part by TxCDBG funds
  - Services paid solely with local or match funds
- **Exemptions to competitive procurement:**
  - Force Account: services performed by employee of City or County
  - Sub-recipient interlocal agreement
    - Must be formally selected by local governing body
- **Retainer agreements for administration, planning and engineering services are not considered competitive procurement (i.e. ineligible costs)**



# Traditional Competitive Proposals

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**Traditional Competitive Proposal Method:** applies to all administrative, planning, & engineering contracts and documented in MSR

## Eight-Step Method:

### **1. Establish Selection Committee:**

- Determines evaluation criteria for proposals
- Must include at least 1 local elected official OR employee with authorized official capacity
- Members vetted for conflicts of interest



# Traditional Competitive Proposals

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## 2. Determine Scope of Services:

- Describes all activities expected to be performed under contract
- Should itemize activities with timeframes and goals
- Basis for the RFP/RFQ and services contract

## 3. Establish Written Selection Criteria:

- Developed by selection committee
- Clear and accurate description of technical requirements
- Can't unduly restrict competition



# Traditional Competitive Proposals

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- 4. RFP or RFQ must contain three parts:**
  - 1. Cover Letter**
  - 2. Request for Proposals/Qualifications (RFP) (RFQ)**
    - Specifications and attachments
    - Scope of work
    - Rating sheet or something similar
  - 3. Sample Contract**
    - I. Agreement
    - II. Scope of Work
    - III. Payment Schedule
    - IV. Terms and Conditions



# Traditional Competitive Proposals

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## 5. Advertise the invitation for RFP/RFQ:

- Grant Recipient must:
  - Advertise in a locally distributed newspaper
  - Publish at least 10 days before the proposal submission deadline
- Required documentation:
  - Tear sheet - full page advertisement, or
  - Photocopy with publisher's affidavit

## 6. Send RFP/RFQ packet to **AT LEAST five (5) individuals/firms:**

- Prep list of potential firms/individuals
- Actively take steps to encourage proposals from:
  - SBE's, MBE's, WBE's & Section 3 business concerns
- Send RFP/RFQ by email, fax, return receipt mail
- Ensure RFP/RFQ Packet and Advertisement allow minimum of 10 days before deadline



# Traditional Competitive Proposals

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## 7. Evaluate and Rate Proposals:

- Selection committee rates proposals submitted by deadline
  - Must use selection criteria identified in RFP/RFQ
  - Process must be uniform and documented
  - **For professional services (engineering) price/cost may NOT be considered until respondent has been chosen**

## 8. Select Respondent:

- Selection committee makes award recommendation for respondent with highest total score or most qualified
- Recommendation must meet the following test:
  - Reasonable – most suitable, fit and appropriate
  - Responsible – integrity, reliability and performance
  - Responsive – bid most fully conforms to RFP



# Traditional Competitive Proposals

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## **8.1 Selection: Non-construction Services (Admin/Planning):**

- Determine highest scoring respondent (most responsive and responsible respondent with price and other factors considered)
- Grant Recipient may conduct negotiations with the best qualified firm in competitive price range
- After negotiations, the best qualified firm can submit BAFO

## **8.1 Selection: Professional Services (Engineering):**

- Most qualified bidder chosen
- Request price proposal
- Negotiate fair and reasonable price
- If negotiations unsuccessful with most qualified, formally end negotiations and select next most qualified
- Repeat as necessary until fair and reasonable price agreed upon



# Clearance, Award and Execution

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## **SAM Clearance:**

- Clear vendor in System for Award Management (SAM)
  - Verify eligibility for all vendors including COGS
  - Can't be debarred, suspended or otherwise excluded
  - Must happen prior to formal action authorizing award

## **Award & Execute Contact:**

- Grant Recipient's local governing body must award and execute a contract(s) for administrative/planning/engineering services to the selected vendor
- See Appendices D & E of TxCDBG Implementation Manual for sample administrative/engineering services contracts

**Submit MSRs for Administration and Engineering vendors in TDA-GO**



# Common Issues

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## Common Issues

- Not allowing a minimum of 10 days between the advertisement and deadline
- Invalid or unreliable email addresses used for sending RFPs/RFQs
- Failure to send solicitation to at least five (5) firms and insufficient documentation of such
- No proof (date stamped) that SAMS clearance was conducted prior to award
- When funds will be de-obligated, not considering programmatic caps on engineering and administration



# Pre-Agreement

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**Pre-Agreement:** time period before formal grant agreement when allowable pre-award costs incurred by grant recipient

**Pre-agreement cost requirements:**

- Be requested in the TxCDBG grant application
- Be necessary to comply with delivery schedule
- Meet the objectives of the program
- Be directly pursuant to proposed project & to applicable federal and state law
- Eligible costs only
- Be compliant with all existing grant rules



# Pre-Agreement Continued....

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## Costs must occur:

- On or after the pre-agreement date found in Exhibit B Section B of the grant agreement
- On or after the admin/planning/engineering vendor contract award date
- During the admin/planning/engineering services contract period

## Common Pre- Agreement Activities:

- Environmental review
- Acquisition (**post-environmental clearance**)
- Group A documents
- Preliminary engineering



# Other Requirements

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- **The Texas Engineering Practice Act:**
  - Requires most public works projects to be designed, supervised, inspected, and accepted by a registered professional engineer.
    - The few exceptions can be found in Sec 1001.053 of the TOC
    - Exceptions request = letter certified by the chief local official.
- **Annual certification required for TxCDBG grant administrators**
  - Services performed by administrators without an annual certification will not be reimbursed
  - Each person within a firm who will be primarily responsible for administration or serve as the administrative point of contact for a TxCDBG Grant Agreement must be certified



# Questions???



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