

Foundations of Procurement Excellence

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Today's Agenda

✓ Welcome & Introduction

- Foundations of Procurement Excellence
- Workshop: RFP First Impressions
- Procurement Ethics
- Becoming a Client of Choice
- Workshop: Putting Together a Proposal
- Five Best Practices to Improve Your Next Solicitation

Solicitation

a request to submit an
offer, quote, or proposal
to meet a need

Solicitation Document

Solicitation

Contents

- Section 1 Scope of Work
- Section 2 Evaluation Criteria and Procedures
- Section 3 Administrative Requirements
- Section 4 Submittal Forms & Exhibits

1) Prepare & Advertise

Procurement Process

Solicitation



Contents

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Vendors Submit Responses

Procurement Process

Solicitation

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2) Evaluate Responses

Procurement Process



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3) Award Contract

Procurement Process

Solicitation

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Contract

A black and white icon of two hands shaking, representing a contract or agreement.

Solicitations Contents

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- 1) Scope of Work
- 2) Evaluation Criteria & Procedures
- 3) Administrative Requirements
- 4) Submittal Forms & Exhibits

Industry Acronyms



3 Types of Solicitations

Based On

Award Factors

3 Solicitation Award Factors

1. Award based on **Cost only**



2. Award based on **Qualifications only**



3. Award based on **Cost & Qualifications**



Solicitation 1 - Cost Only Award

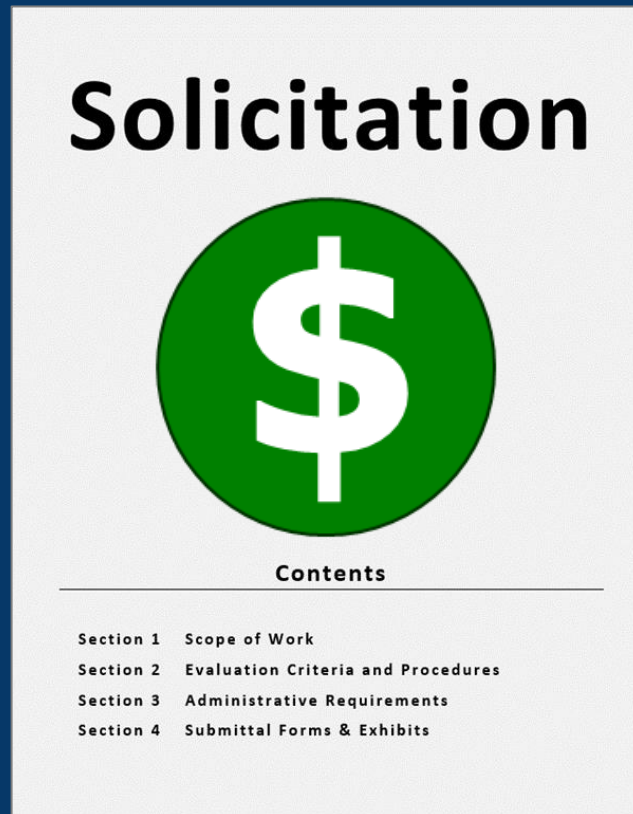
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Solicitation 1 - Cost Only Award



Industry Acronyms

ITB - Invitation To Bid

RFQ - Request For Quote

IFB - Invitation For Bid

RFB - Request For Bid

RFT - Request For Tender

ITB Mechanics

Solicitation

ITB

Advertise

ITB Mechanics

Solicitation

ITB

Advertise



**Vendors Submit
Bid Packages**

ITB Mechanics

Solicitation

ITB

Advertise



**Vendors Submit
Bid Packages**

**Lowest Cost
Is Selected**



Contract








*Award To
Lowest Cost*

Weaknesses #1

**Treats Project/Service as
Commodity**

ITB Weaknesses #1

Treats Project/Service as Commodity

-  **Experience** is not considered or valued
-  **Qualified personnel** is not considered or valued
-  **Better solutions** are not considered or valued
-  **Mitigating risks** is not considered or valued
-  **Cost is only factor that is important**

Approach to Financial Evaluation

- Traditional approach: largest percentage discount

	<u>Discount %</u>	<u>Final Price</u>	<u>Widget "X" List Price</u>
Firm X	50%	\$5,000	\$10,000
Firm Y	↑ 58%	\$5,000	↑ \$12,000

- Average of Furniture Program Discounts: 60%

Weaknesses #2

**Scope of Work
Must Be Accurate**

ITB Weaknesses #2

Scope of Work Challenges

Complete

Accurate

Explicit

Weaknesses #3

**Assumption That Vendors
Can Understand Your Scope**

ITB Weaknesses #3

Not Everyone Can Understand

Vendors do not all understanding the same way

Vendors do not all perceive the same way

Vendors may not all know how to price your requirements

Weaknesses #4

**Poor Performers
Can Still Win**

ITB Weaknesses #4

Poor Performers Can Win

Experience is not considered or valued

Qualified personnel is not considered or valued

Better solutions are not considered or valued

Mitigating risks is not considered or valued

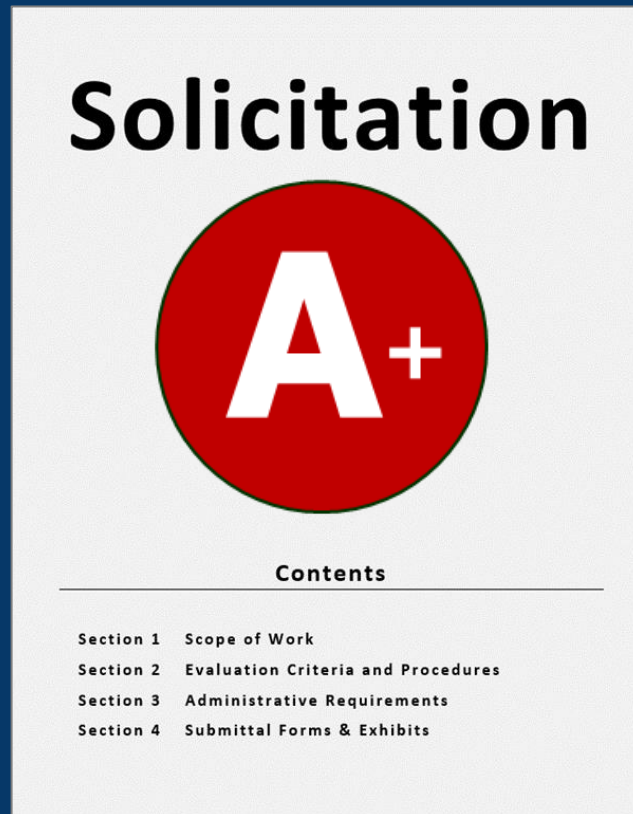
Solicitation 2 - Qualifications Only Award

Industry Acronyms

RFQ – Request For Qualifications

SOQ – Statement Of Qualifications

QBS – Qualifications Based Selection



Solicitation 3 | Cost + Qualifications

Solicitation



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Solicitation 3 | Cost + Qualifications

Industry Acronyms

RFP – Request For Proposals

RFS – Request For Solution

Solicitation



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RFP Mechanics

Solicitation

RFP

Advertise

RFP Mechanics

Solicitation

RFP



**Vendors Submit
Proposals**

Advertise

RFP Mechanics



RFP Challenges

- **More complex** (multiple award factors)
- Requires **more resources** (evaluation team, read responses)
- Evaluation **takes more time**
- Decision is more **difficult to defend** (they are peoples opinions)
- Opportunities **for collusion** (can be used to pick favorites)

Which Is The Right Approach?

ITB

Cost Only



RFP

Best Value

Consider 4 Project 'Traits'

ITB

Cost Only



RFP

Best Value

Low \$



Value

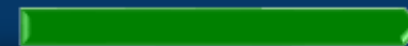


High \$\$\$

Simple



Complexity

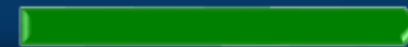


Complex

High



Expertise



Limited

Low



Politics



High



\$ 5

Value

ITB

Cost Only

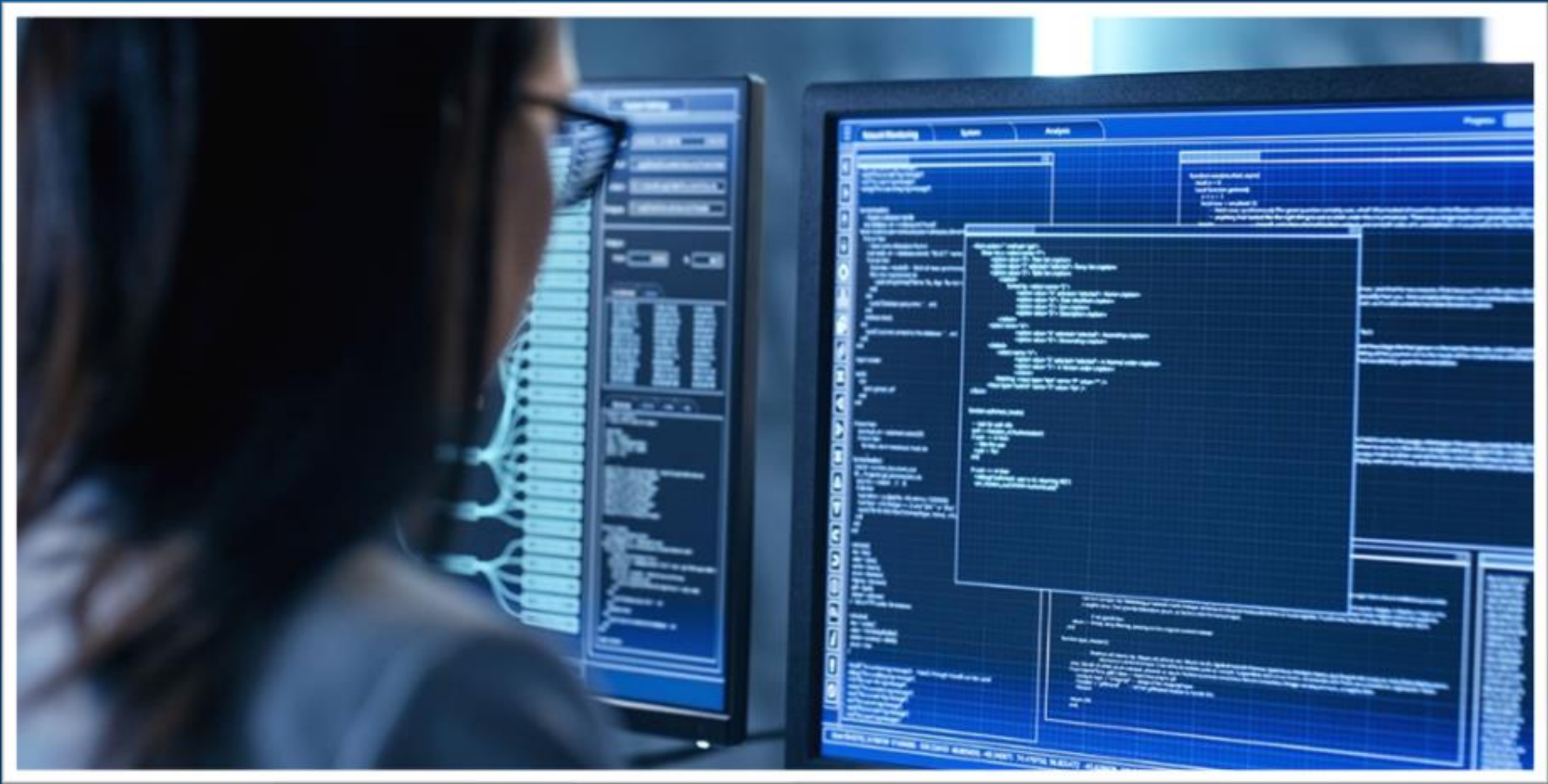


RFP

Best Value



\$ 5



\$ 500,000

Value

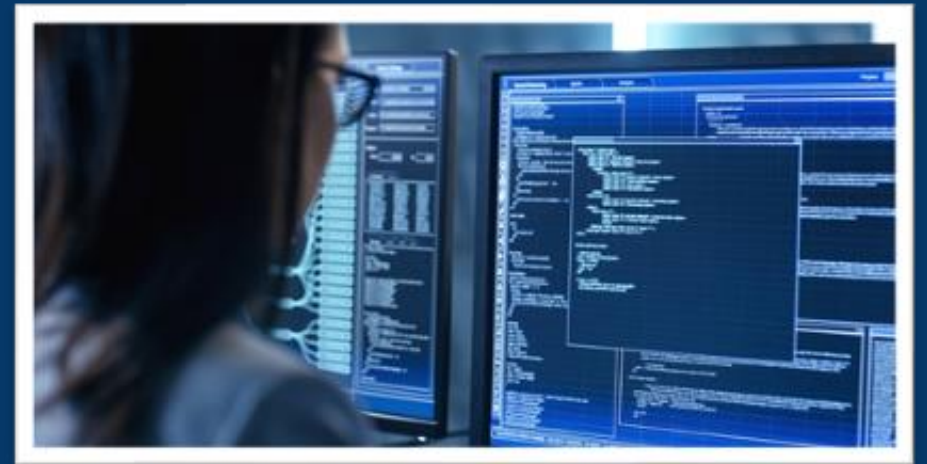
ITB

Cost Only



RFP

Best Value



\$ 500,000



Complexity

ITB

Cost Only



RFP

Best Value





Complexity

ITB

Cost Only



RFP

Best Value



Internal Expertise

Low \$



Value



High \$\$\$

Simple



Complexity



Complex

High



Expertise



Limited

Low



Politics



High



Internal Expertise

ITB

Cost Only



RFP

Best Value





Internal Expertise

ITB

Cost Only



RFP

Best Value



Politics

Low \$



Value

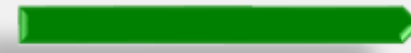


High \$\$\$

Simple



Complexity



Complex

High



Expertise



Limited

Low



Politics



High

Angeles Times

SPORTS

2018 • LATIMES.COM/SPORTS

AREA 1



NTR

After police
shootings,
families feel
left in dark

Los Angeles Times

NEWSPAPER PUBLISHED DAILY

WEDNESDAY, JUNE 28, 2018

latimes.com

COURT UPDATES PRIVACY LAW FOR PHONES

Justice rule police
need a warrant to get
tracking data from
cell towers — already
required in California.

By David U. Bahoon

WASHINGTON —



Migrant crisis persists without solution

Federal agencies
scramble with no clear
direction on dealing
with parents and

CALIFORNIA

BULLS

The Right Approach

ITB

Cost Only



RFP

Best Value



Core Solicitation Principles

Open | Fair | Transparent

Core Solicitation Principles

	Scenario A	Scenario B	Scenario C	The Best!
Open	✓	✓	✗	✓
Fair	✗	✓	✗	✓
Transparent	✓	✗	✓	✓
Impacts				
Number of Responses	⚠	⚠	⚠	✓
Quality of Responses	⚠	⚠	⚠	✓
Cost Competitiveness	⚠	⚠	⚠	✓

**What Would
You Do?**

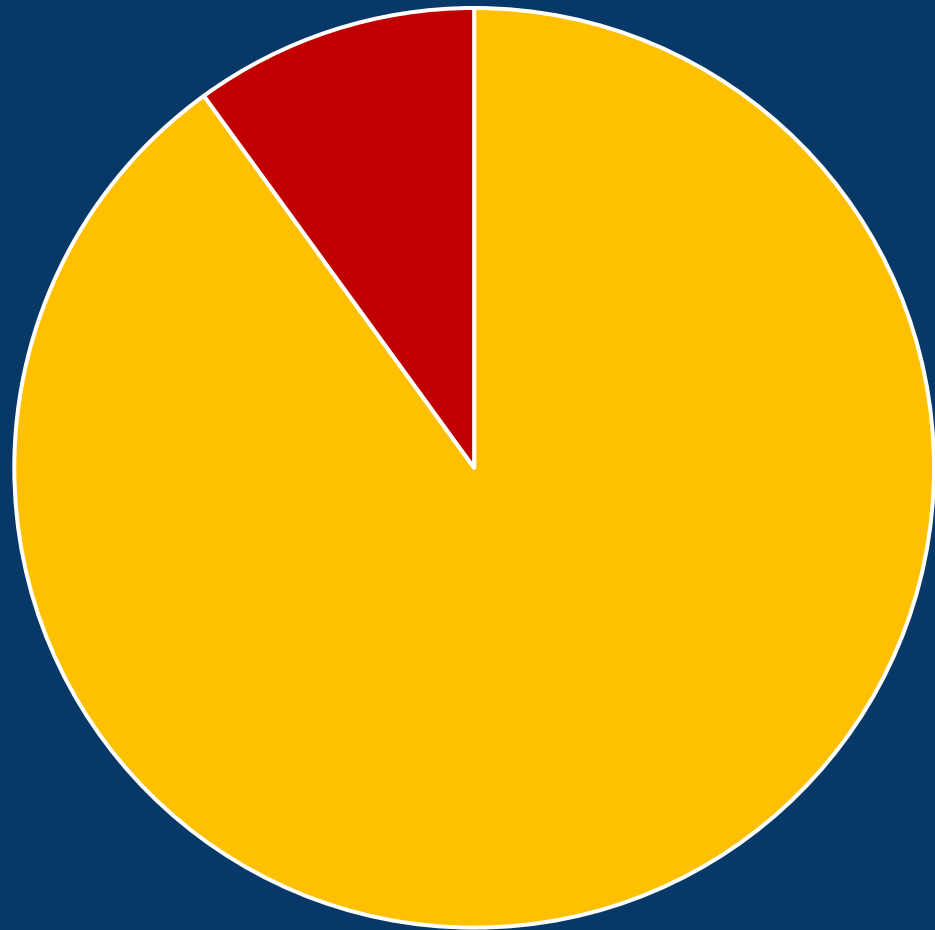
Scenario

- Your customer has approached you with an **urgent project** that needs to be procured as soon as possible.
- They need to renovate and convert an **office into a laboratory** as soon as possible or they might lose funding to build this project.
- Your customer has worked with **two different contractors** over the past 5 years that have performed exceptionally.
- Due to the urgency, your customer would like to send a **solicitation to only these two** vendors and obtain proposals for doing this work.

Discussions

**All
Procurements
Are Urgent**

All Procurements Are Urgent



90% Urgent

10% Extremely Urgent

Poor planning is generally not an acceptable excuse to use a Sole Source Award.

Sole Source Awards



Guiding Principles

- **Open**
- **Fair**
- **Transparent**
- **Value**

Sole Source Award

Soliciting a proposal from only one firm without any competition

**This wouldn't be
"FAIR"**



Promoting Competition

(FAR Section 6)

**Contracting officers shall promote and
provide for full and open competition
in soliciting offers and awarding
Government contracts**

Can Be Used In Unique Circumstances

FAR 6.302

- **National emergency**
- **Delay in award would result in serious injury**
- **Small, woman, minority, veteran owned business**
- **No other supplies or services will satisfy agency requirements**

Certification and Justification

6.303-2

(1) Identification of the agency

(2) Nature and/or description of the action being approved.

(3) A description of the supplies or services required to meet the agency's needs (including the estimated value).

(4) An identification of the statutory authority permitting other than full and open competition.

(5) A demonstration that the proposed contractor's unique qualifications requires use of the authority cited.

(6) A description of efforts made to ensure that offers are solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required

(7) A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.

(8) A description of the market research conducted and the results

(9) Any other facts supporting the use of other than full and open competition, such as: Explanation of why technical data packages, specifications, statements of work, suitable for full and open competition have not been developed or are not available.

(10) A listing of the sources, if any, that expressed, in writing, an interest in the acquisition.

(11) A statement of the actions, if any, the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.

(12) Contracting officer certification that the justification is accurate and complete to the best of the contracting officer's knowledge and belief.

- A description of the **market research** conducted and the results
- A determination that the anticipated **cost** will be fair and reasonable.
- Facts **supporting** the use of other than full and open competition
- Contracting officer **certification** that the justification is accurate and complete

U.S. Department of Justice

<https://ojp.gov/training/pdfs/Sole-Source-FactSheet-C.pdf>

U.S. Department of Justice
Office of Justice Programs



Fact Sheet

www.ojp.gov

Sole Source Justification

What is "sole source" procurement?

Procurement by noncompetitive proposals, referred to as sole source procurement, is procurement through solicitation of a proposal from only one source. Sole source procurements must adhere to the standards set forth in 2 C.F.R. § 200.320(f) in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted by the U.S. Department of Justice in 2 C.F.R. § 2800.101. To help determine when a sole source procurement may be used, see OJP's *Sole Source Review Checklist*.

When is sole source approval required by OJP?

All sole source procurements require adequate written justification that meets the criteria listed below and documentary support in the procurement file to be allowable.

A recipient must also request and receive written approval from OJP **prior** to purchasing equipment, technology, or services; obligating funding for a contract; or entering into a contract with award funds **related to sole source procurements** in excess of the simplified acquisition threshold, as determined by the Uniform Guidance (currently \$150,000). For the purchase of equipment, technology, or services under an OJP award – to include but not limited to noncompetitive ("sole source") procurements, recipients must use their own documented procurement procedures that reflect applicable state and/or local laws and regulations, as long as those requirements conform to the federal procurement standards set forth in 2 C.F.R. § 200.318. A sole source justification request should only be submitted if a recipient determines that the award of a contract through a competitive process is infeasible.

Sole source procurement should be used only when competitive solicitation procedures like sealed bids or competitive proposals are not applicable to the requirements or are impracticable.

Recipients may conduct noncompetitive ("sole source") procurement through solicitation of proposals from only one source when one or more of the following circumstances apply:

- The item/service is available only from one source.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- Competition is determined inadequate after solicitation of a number of sources.

What documentation must be submitted to OJP for sole source approval?

An award recipient must initiate a *Sole Source Approval Grant Adjustment Notice (GAN)* in the Office of Justice Programs (OJP) Grants Management System (GMS) to request approval to enter into a noncompetitive contractual relationship with a contractor under a Federal award, where the contracted cost exceeds the Simplified Acquisition Threshold (currently \$150,000).

To assist in OJP's review include a copy of the completed Sole Source Review Checklist with the GAN submission along with the written justification. The outline below may be helpful in preparing your agency's sole source request and ensuring that all of the necessary information is included. The request should include the following information:

Section I. A brief description of the project, the amount to be designated for the sole source procurement, the purpose of the contract and an itemized budget for the contract amount.

Sole Source Review Checklist

Tool to assess the merits of a sole source approval request



A *Sole Source Approval Grant Adjustment Notice (GAN)* in the Office of Justice (OJP) Grants Management System (GMS) must be initiated to request approval to enter into a noncompetitive contractual relationship, with a contractor under an award, where the contracted cost exceeds the Simplified Acquisition Threshold of \$150,000. The sole source justification should include adequate information to address the elements below. In addition, a copy of the itemized budget for the contract amount should be attached to the *Sole Source Approval GAN*.

Below is a checklist intended to help evaluate sole source requests. The sole source approval request only needs to meet one of the qualifying situations listed on this checklist. **All the conflict of interest of interest items must be addressed in the justification.**

Item Only Available Through a Single Source

- Does independent research through internet searches or discussions with subject matter experts corroborate that the item is available only from a single source?
- Does the request demonstrate the uniqueness of items or services to be procured from the proposed contractor or vendor (e.g., compatibility or patent issues, etc.)?
- Does the request demonstrate and support how it determined that the item or service is only available from one source (e.g., market survey results, independent agency research, patented or proprietary system)?
- Does the request demonstrate a significant need for contractor's expertise linked to the current project (e.g., knowledge of project management, responsiveness, experience of contractor personnel, and/or prior work on earlier phases of project)?

Public Emergency

- Is there a public emergency such as a natural disaster or catastrophic event?
- Has there been a declared state of emergency in which these goods and services will be needed?
- Is there an immediate health or safety concern?

Inadequate Competition

- Does the request adequately describe the efforts to competitively contract for this item? For example, were requests for proposals or bids conducted and what was the nature of the responses?
- Does the request adequately describe the efforts to ensure the contract pricing is fair and reasonable?
- Does the request provide results of a market survey to determine competition availability or explained why no survey was conducted?

Conflict of Interest/Suitability/Procurement Standards *(justification must address all items)*

- Does the request ensure there is no conflict of interest with the proposed vendor?
- Does the request indicate that the Excluded Parties List was checked and that the proposed vendor has not been debarred from receiving federal funds?
- Does the request include evidence that the procurement will be competed in compliance with the organization's procurement policies and the procurement standards outlined in the DOJ Grants Financial Guide and the Uniform Guidance, including the required contract provisions?



U.S. Department of Justice
Office of Justice Programs
Office of Audit, Assessment, and Management



Example 1: Untested Supplier

A customer has approached you with a need to hire someone for a unique and highly specialized facility. In the past, your company hired “Firm ABC” on similar project and it was a success! Your company has also hired “Firm LMN” on a simpler project and it was unsuccessful (poor quality, finished late, change orders, etc.). Since this is an important project, they would like to use a Sole Source Award to hire “Firm ABC” to ensure that a **highly qualified** vendor constructs this facility.

Potential Response

- 1. Policy does not Sole Source Award**
- 2. We do have tools to help ensure that a highly qualified vendor has the greatest opportunity to win the award.**
- 3. This can all be done in a process that is open and fair, meets policies, minimizes protests, and keeps us out of court.**

Summary

- **SSA are not illegal, but are intended to be used in extremely rare circumstances**
- **If permitted, you are generally required to certify and justify the reasoning for the use**
- **Many internal clients will attempt to utilize the Sole Source Award due to their lack of knowledge of procurement policies. Nearly all of their needs can be met using one of the many procurement tools (ITB's, RFP's, etc.)**

Concerns With Limiting Competition

- Does not meet **core procurement fundamentals** of being open
- Does not meet requirements of sole sourcing or limiting competition
- Limiting competition has potential to impact cost competitiveness

Alternatives

- **ITB vs RFP**
- **Quickly issue an RFP (ensure high quality team)**
- **Provides greatest opportunity to partner with a high quality team**

Summary

- **First step in the procurement process**
- **Three main options: Cost only | Qualifications only | Combo**
- **ITB vs RFP: Value | Complexity | Internal Expertise | Politics**
- **Solicitations must be: Open, Fair, Transparent**

Contracts vs. Solicitations



**A binding agreement between
two or more parties for the
supply of goods or services**



**A binding agreement between
two or more parties for the
supply of goods or services**

Owner



Supplier

Purpose

- 1. Allocate the duties/responsibilities between parties**
- 2. Allocate the risk to the different parties**
- 3. Reduce the uncertainties**

**Contracts are unique based
on the project or service
you are looking to award**

Similar Clauses

- **Definition of the Scope of Work**
- **Terms of Payment**
- **Schedule / critical dates**
- **Bonding & Insurance**
- **Rights of parties (retainage, lien, etc.)**
- **Warranties**
- **Indemnity clauses**



Solicitation

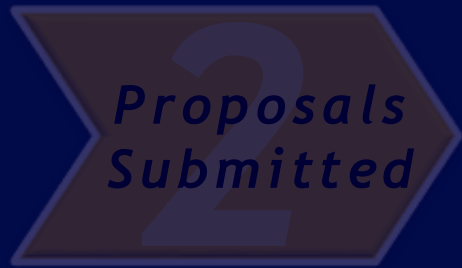
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Contract





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Contract



Selection Phase

Solicitation



Contract



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Selection Phase

Execution Phase

Solicitation



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Contract



Selection Phase

Contract



Execution Phase

Summary

- A contract is a formal/legal document **between 2 parties**
- A contract is the last step in the 'Selection Phase' but the first step in the 'Execution Phase'
- Contracts are essential and work typically cannot commence **until Contract Signed**

A 'good' contract is only as good as the supplier that is selected to sign the contract. Therefore, the solicitation provides the greatest opportunity to maximize success on the project or service.

