

CITY  
OF  
LAKE CHARLES  
LOUISIANA



DISASTER and  
EMERGENCY GRANT  
MANAGEMENT

CONTRACTS  
AND  
PROCUREMENT  
POLICY  
AND  
PROCEDURES  
MANUAL

April  
2022

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ETC.



## CITY OF LAKE CHARLES

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### FOREWORD:

The purpose of the City of Lake Charles Disaster and Emergency Grant Management Contracts and Procurement Policy and Procedures Manual is to provide guidance and instruction of the federal, state and city procurement policies and procedures.

These policies and procedures have been designed to standardize guidelines for federally funded projects, services, and purchases for the City of Lake Charles. These purchasing procedures are an integral part of the City's computerized accounting system. Therefore, it is essential to have the cooperation of all parties involved in strict adherence to these guidelines so that expeditious handling of all orders can be facilitated. The degree of cooperation of all of us will determine the success or failure of the system and also help provide budgetary control.

Through proper application of this cost effective system we will all aid in the evolution of more accurate, detailed, and complete records necessary for compliance with federal and state laws and City of Lake Charles ordinances.

Thank you for your cooperation.

Alecia Comeaux  
Purchasing Manager

*United for Progress and Prosperity*

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## CHAPTER 1 – INTRODUCTION

### 1.1 COMPLIANCE

This *City of Lake Charles Disaster and Emergency Grant Management Contracts and Procurement Policy and Procedures Manual* establishes guidelines and minimum standards that the City of Lake Charles (hereinafter referred to as CoLC), will use to process third party contracts. This manual is intended to help comply with the **Federal Emergency Management Agency (hereinafter referred to as FEMA)** standards to ensure competitive bidding through full and open competition and equitable treatment of all potential sources for all purchases made with funding derived from the federal, state, and local governments. Competitive proposals and sealed bid transactions will be conducted in a manner to provide maximum open and free competition consistent with Code of Federal Regulations, Part 200, (Sections 318 through 327) "Procurement Standards".

(<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>)

The policies and procedures contained herein establish standard business practices to ensure the timely, efficient, and economical delivery of services and materials. The following contracts are outside the scope of third party contracting and will not be governed by these policies and procedures:

- 1) Employment Contracts,
- 2) Real Estate Contracts, and
- 3) Intergovernmental Agreements.

The goal of procurement practices is to provide an atmosphere conducive to "Full and Open Competition," in which all procurement transactions will be conducted in a manner providing full and open competition. CoLC will avoid the following situations considered to be restrictive of competition (2 CFR §200.319):

- 1) Unreasonable requirements placed on firms in order for them to qualify to do business;
- 2) Unnecessary experience and excessive bonding requirements
- 3) Noncompetitive pricing practices between firms or between affiliated companies;
- 4) Noncompetitive awards to any person or firm on retainer contracts;
- 5) Organizational conflicts of interest, which means that because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;
- 6) The specification of only a "brand name" product without listing its salient characteristics and not allowing "an equal" product to be offered; and
- 7) Any arbitrary action in the procurement process.

CoLC shall conduct procurements in a manner that does not give in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws. Geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services if an appropriate number of qualified firms, given the nature and size of the project, are able to compete for the contract.

Additional procurement guidance may be found in the CoLC Purchasing Manual.

## **1.2 DOCUMENTATION**

In order to meet standards established by the FEMA, and to be prepared for procurement reviews, it is critical to accurately document procurement procedures. This manual outlines the steps to take and provides the standardized forms to complete for each type of procurement. Addresses, telephone numbers, and website addresses have been included to help the buyer expedite each step. Appendix B contains the standardized forms to be used to document practices.

The complete *FEMA Procurement Resource Library* is located on the Federal Emergency Management Agency's website at <https://www.fema.gov/grants/procurement/resource-library>.

It is important to work closely with the Purchasing Manager to make sure the forms and documentation are completed on schedule and placed in the procurement file. The steps to perform each type of procurement are intended to serve as a checklist.

## **1.3 GRANT MANAGEMENT POLICY**

The City of Lake Charles operates primarily on a reimbursement basis for all capital project grants. All expenses are reviewed and approved by the appropriate project manager before being processed by Accounting. Invoice are then reviewed and approved by Accounting before any checks are issued. Reimbursement requests are prepared by Accounting and approved by the Director of Finance. The Accounting/Finance Department works closely with project managers to insure all grant requirements are met.

The City of Lake Charles operates primarily on a reimbursement basis for all general grants. Expenses are posted and paid prior to any submission of reimbursement request. Grant budgets are tracked by specific account codes in CoLC's computerized accounting system. Detailed budget reports are reviewed monthly to compare actual expenses and current encumbrances against budgets. Grant expenses are reviewed and approved by appropriate grant manager to insure that only eligible expenses are charged to those grants. All grant balances are reconciled monthly with the issuing agencies financial system. Any discrepancies are investigated to determine corrective action. Reimbursement requests are prepared by Accounting personnel and approved by Accounting/Finance management prior to submission. All required financial reports are prepared by Accounting personnel and approved by the Director of Finance prior to submission. Most grant funds are received on reimbursement basis. Should grant revenue be received prior to disbursement of funds, that amount would be placed in the City's Operating account at the fiscal agent bank. The receipt of those funds would be recorded in the appropriate non-interest bearing special revenue fund in the City's accounting system and disbursed within the timeframe allowed by the grant.



## CHAPTER 2 – CITY OF LAKE CHARLES CODE OF ETHICS AND CONFLICT OF INTEREST POLICY

### 2.1 WRITTEN STANDARDS OF CONDUCT

In order to conduct procurement activities in an ethical manner, a Code of Ethics and Conflict of Interest Policy is established for the CoLC, stated as follows.

#### 2.1.1 Personal Conflict of Interest

No CoLC employee, officer, agent, or immediate family member shall participate in the selection of, award, or administration of a contract supported by FEMA funds if a conflict of interest, real or apparent, would be involved. Such a *personal conflict of interest* would arise when any of the following has a financial interest or other interest in the firm selected for the award:

- 1) The employee, officer, or agent
- 2) Any member of his/her immediate family,
- 3) His or her partner, or
- 4) An organization that employs, or is about to employ, any of the above.

CoLC officers, employees, and agents, shall neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from actual contractors, potential contractors, or parties to sub agreements, including but not limited to monies, credits, discounts, seasonal or special occasion presents, edibles, drinks, household appliances and furnishings, clothing, vacations, travel or hotel expenses, various forms of entertainment if:

- 1) It tends to influence the employee, officer, or agent in the discharge of employee's official duties; or
- 2) The employee, officer, or agent recently has been, or is now, or in the near future may be, involved in any official act or action directly affecting the donor or lender; or
- 3) The employee, officer, or agent has or appears to have influence over CoLC actions affecting the donor or lender in the employee's official capacity.

Notwithstanding the above, this section shall not apply to unsolicited advertising and promotional material such as pens, pencils, note pads, calendars, or other business-related items of nominal intrinsic value.

Purchasing employees must recognize that their purchasing activities are of public interest and a matter of public record; therefore, their actions must be conducted in a manner so as to be fully substantiated and legally defended in accordance with the authority of the City of Lake Charles. At all times, CoLC employees must endeavor to keep from involvements that could result in a possible position of "conflict of interest."

When an actual or potential violation of any of these standards is discovered, the person involved shall promptly file a written statement concerning the matter with an appropriate supervisor. The person may also request written instructions and disposition of the matter. If an actual violation occurs or is not disclosed and remedied, the employee involved may be either reprimanded, suspended, or dismissed. The vendor or potential vendor may be barred from receiving future contracts and/or have an existing contract canceled.

#### 2.1.2 Organizational Conflicts of Interest

The Purchasing Manager and staff are encouraged to work closely with the CoLC Legal Department (hereinafter referred to as Legal) to review all situations that appear to have the potential for an organizational conflict of interest. (See Appendix C for the name, telephone number, and e-mail address of the person to contact.) Legal can help in the preparation of restrictive contracting clauses suitable for the particular situation

Organizational conflicts of interest can cause two distinct problems. One concerns the issue of bias; the other involves the issue of unfair competitive advantage.

An organizational conflict of interest occurs due to the type of work to be performed under a third party contract, or because of other activities or relationships such as:

- 1) A contractor is unable, or potentially unable, to render impartial assistance or advice to CoLC;
- 2) A contractor's objectivity in performing contract work is or might otherwise be impaired; or
- 3) A contractor has an unfair competitive advantage.

Bias arises when a contractor is placed in a situation where there may be an incentive to distort advice or decisions. Whenever a contract is awarded that involves the rendering of advice, the question must always be asked as to whether the potential for a conflict of interest exists for the contractor rendering the advice. In fact, CoLC should always consider using a "Conflict of Interest Disclosure Statement," such as follows, in its solicitation when contracting for services of this nature.

- 1) The offeror shall provide a statement in its proposal which describes in a concise manner all past, present or planned organizational, financial, contractual or other interest(s) affected by any CoLC employee, officer, or agent; any member of these entities' immediate family, partner, or organization that employs, or is about to employ, any of the above, and which is related to the work under this solicitation. The interest(s) described shall include those of the proposer, its affiliates, proposed consultants, proposed



subcontractors, and key personnel of any of the above. Past interest shall be limited to within one year of the date of the offeror's technical proposal. Key personnel shall include any person owning more than 20% interest in the offeror, and the offeror's corporate officers, its senior managers and any employee who is responsible for making a decision or taking an action on this contract, where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

- 2) The offeror shall describe in detail why it believes, in light of the interest(s) identified in (a) above, that performance of the proposed contract can be accomplished in an impartial and objective manner.
- 3) In the absence of any relevant interest identified in 1) above, the offeror shall submit in its proposal a statement certifying that to its best knowledge and belief no affiliation exists relevant to possible conflicts of interest. The offeror must obtain the same information from potential subcontractors prior to award of a subcontract.
- 4) CoLC and the Purchasing Manager will review the statement submitted and may require additional relevant information from the offeror. All such information, and any other relevant information known to CoLC, will be used to determine whether an award to the offeror may create a conflict of interest. If any such conflict of interest is found to exist, the Purchasing Manager may (a) disqualify the offeror, or (b) determine that it is otherwise in the best interest of CoLC to contract with the offeror and include appropriate provisions to mitigate or avoid such conflict in the contract awarded.
- 5) The refusal to provide the disclosure or representation, or any additional information required, may result in disqualification of the offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If after award the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been known prior to award, an immediate and full disclosure shall be made in writing to the Purchasing Manager. The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Purchasing Manager may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of CoLC by sending the Contractor a Notice of Termination specifying the nature of default.

The problem of unfair competitive advantage occurs most often when a contractor is developing specifications or statements of work that will be used in a future competitive solicitation. The problem most often causing unfair advantage occurs when the contractor writes specifications or statements of work around its own corporate competitive strengths or products, and then bids on those specifications or statements of work. CoLC can overcome the unfair advantage by placing reasonable restrictions on the contractor's involvement in the procurement that will utilize the specifications.



Some form of advance restriction (limitation on future contracting) must be agreed to with the contractor as a provision within its consulting contract. Another typical problem scenario is that a contractor developing specifications or work statements may have access to information that CoLC has paid the contractor to develop, or which CoLC has furnished to the contractor for its work and which has not been made public. When this information enhances the contractor's competitive position in the bidding, it represents an unfair competitive advantage. The potential solution to this problem is to fully disclose all information to the bidders for a reasonable time prior to receipt of proposals.

The situation of "unfair competitive advantage" is to be distinguished from a "fairly won competitive advantage" which naturally accrues to any contractor that can do work more efficiently because it has more experience (i.e., won more contracts) for its products or services. It is a fact that competitors are frequently discouraged from bidding on a particular procurement because they perceive an incumbent contractor to have an insurmountable competitive advantage by virtue of its previous work.

Obtaining Access to Proprietary Information – When a consulting contractor requires proprietary information from others to perform a CoLC contract, the contractor may gain an unfair competitive advantage. Imposed restrictions protect the information and encourage companies to provide it when necessary for contract performance. A contractor doing work for CoLC and requiring such information is required to enter into agreements with the other companies to protect their information from unauthorized use or disclosure for as long as it remains proprietary and also to refrain from using it for any purpose other than that for which it was furnished. The Purchasing Manager will obtain copies of these agreements.

## CHAPTER 3 – PROCUREMENT PROCESS, PLANNING AND ORGANIZATION

The following sections are written as a step-by-step guide for the procurement process to assist Purchasers in making Micro-Purchases, Small Purchases, Large Purchases, Sole Source Purchases, in procuring through Invitation to Bid, and Request for Proposals. Follow these steps for purchases funded by the federal, state, and local governments.

### 3.1 MICRO-PURCHASES

- Micro-Purchases do not exceed \$10,000, including delivery charges.
- Splitting procurements to avoid the \$10,000 competition requirement is not allowed.
- To justify Sole Source Procurements, complete Form B-7 and attach it to the Purchase Order documentation.

#### 3.1.1 Steps Involved in Making Micro-Purchases

When making a micro-purchase, complete each of the following steps.

- \_\_\_ Step 1 Obtain budget approval and enter requisition.
- \_\_\_ Step 2 Determine "fair and reasonable" price for the product or service to be purchased. Complete the *Fair and Reasonable Price Documentation* (Form B-1).
  - a. On the form, indicate the method used to determine that the price is "fair and reasonable."
  - b. If telephone quotes are used, write the name of the company and the dollar amount of the quotes in the spaces provided.
  - c. If catalogues or newspaper advertisements are used, photocopy the catalogue page or advertisement and attach it to the form.
  - d. If found reasonable based upon a recent purchase, explain in the space provided.
  - e. If found reasonable based upon personal knowledge, explain in the space provided.
  - f. If any other method is used, place the name of the vendor and dollar amount of quote and comments in the space provided.
  - g. Sign and date the form.
  - h. Attach this form to the requisition along with any other attachments (photocopies of catalogue pages, advertisements, etc.) to be filed.

- \_\_\_ Step 3 Select the source that provides the product or service for the lowest price and meets the required specifications, as opposed to desired specifications.
- \_\_\_ Step 4 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- \_\_\_ Step 5 **\*\*PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT\*\***  
Review System for Award Management ([www.sam.gov](http://www.sam.gov)) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- \_\_\_ Step 6 Attach all required FEMA clauses and certifications and send to vendor with purchase order.
- \_\_\_ Step 7 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- \_\_\_ Step 8 Make the purchase.

### 3.2 SMALL PURCHASES

- Small Purchases are purchases of materials that cost a minimum of \$10,000 and do not exceed the \$250,000 simplified threshold. Use this procurement method for:
  - 1) Goods and services that are clearly defined,
  - 2) Construction projects, and
  - 3) When the award can be made primarily based upon the price of the bid.
- This method of procurement allows for free and open competition.
- Complete the *Price Quotes Documentation for Small Purchases* (Form B-2) prior to requesting bids or proposals.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$30,000.
- Advertise Invitation for Bid if the cost exceeds \$30,000.
- After the bids are received, the City Council is required to award contracts over \$30,000 through an agenda item.
- Splitting procurements to avoid the \$30,000 (\$250,000 simplified threshold) competition requirement is not allowed.
- Price or rate quotations shall be obtained from at least three (3) qualified sources if the purchase does not exceed \$30,000.
- To justify Sole Source Procurements, complete Form B-7 and attach it to the Purchase Order documentation.



- CoLC may not restrict competition by:
  - 1) Placing unreasonable requirements on firms in order for them to qualify to do business,
  - 2) Having an organizational conflict of interest,
  - 3) Requiring vendors to have unnecessary experience or unnecessary bonding,
  - 4) Giving preference in the evaluation of bids to in-state or local businesses, except in those cases where federal statutes expressly mandate or encourage geographic preference. (This does not preempt state licensing law.)

### 3.2.1 Small Purchases Not Exceeding \$30,000

When making a small purchase that costs between \$10,001 and \$30,000, complete each of the following steps.

- \_\_\_ Step 1 Obtain budget approval and enter requisition.
- \_\_\_ Step 2 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- \_\_\_ Step 3 Obtain at least **three** verbal or written price quotations (faxed quotes are acceptable) and complete the *CoLC Price Quotes Documentation for Small Purchases* (Form B-2). If telephone quotes are obtained, write the name of the company and the dollar amount of the quotes in the spaces provided. Sign and date the form.
- \_\_\_ Step 4 Select the source that provides the product or service for the lowest price and meets the required specifications (as opposed to desired specifications).
- \_\_\_ Step 5 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- \_\_\_ Step 6 Complete *Determination of Best Value* (Form B-8).
- \_\_\_ Step 7 **\*\*PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT\*\***  
Review System for Award Management ([www.sam.gov](http://www.sam.gov)) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- \_\_\_ Step 8 Attach all required FEMA clauses and certifications and send to vendor with purchase order.
- \_\_\_ Step 9 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- \_\_\_ Step 10 Make the purchase.

### 3.2.2 Small Purchases Exceeding \$30,000

- Plan for minimum of sixty (60) business days to place the order.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$30,000.
- Advertise Invitation for Bid or Request for Proposals if the independent estimate exceeds \$30,000.
- After the bids are received, the City Council is required to award contracts over \$30,000 through an agenda item.

When making a small purchase that exceeds \$30,000, complete each of the following steps. Place the date of completion for each step on the line provided.

- \_\_\_ Step 1 Obtain **budget approval** and enter requisition.
- \_\_\_ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the procurement file throughout the project.
- \_\_\_ Step 3 Determine whether or not the purchase, service or construction project exceeds \$30,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- \_\_\_ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- \_\_\_ Step 5 If the independent estimate for a purchase exceeds \$30,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.
- \_\_\_ Step 6 **Prepare the Specifications and Bid Package.** The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow bidders to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not.

- \_\_\_ Step 7 The advertisement for the small purchase competitive sealed bid must be published in the City's official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. **Place the legal notice(s) in the file.** The advertisement must contain the following:
  - ~The description of the work, goods, or services to be procured;
  - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
  - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
  - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).
- \_\_\_ Step 8 Send the advertisement to third parties on the CoLC Bidder List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the CoLC DBE Vendor Listing.
- \_\_\_ Step 9 Send bid packages to third parties requesting bid packages. List the vendors requesting bid packages on the Bid Summary.
- \_\_\_ Step 10 Date and time stamp the sealed bids as received.
- \_\_\_ Step 11 Keep a list of the responding vendors on the Bid Summary. Keep sealed bids in a secure place until the bid opening.
- \_\_\_ Step 12 At the designated time and place, formally open and read aloud the sealed bids.
- \_\_\_ Step 13 Record the bids on the Bid Tabulation.
- \_\_\_ Step 14 Any sealed bids that reach City of Lake Charles after the bid opening time and date must be mailed back to the source without opening.
- \_\_\_ Step 14 Complete the *Price Analysis Documentation for Small and Large Purchases* (Form B-5). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.
- \_\_\_ Step 15 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.



- \_\_\_ Step 15 Select the lowest, most responsive bid that meets the specifications as stated in the Invitation to Bid. Complete *Determination of Best Value* (Form B-8). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Invitation for Bids): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.
- \_\_\_ Step 16 If the lowest bid is not selected, document the reasons for the selection on the *Determination of Best Value* (Form B-8). If none of the bids are selected, document the reasons and start the bidding process over. The specifications may need to be amended. If a single bid or single responsive bid is received, determine fair and reasonableness of the bid and whether or not to accept the bid or reject the bid and begin the process again or abandon the project. If a single bid is received, an option is to return the bid unopened to the vendor and reject all bids and begin again. Do not negotiate bids as in a sole source procurement.
- \_\_\_ Step 17 **\*\*PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT\*\***  
Review System for Award Management ([www.sam.gov](http://www.sam.gov)) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- \_\_\_ Step 18 Attach all required FEMA clauses and send to vendor with purchase order.
- \_\_\_ Step 19 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- \_\_\_ Step 20 Make the purchase.

### **3.3 LARGE PURCHASES (EXCEEDING \$250,000) SEALED BIDS (INVITATION FOR BIDS)**

- FEMA threshold for Large Purchases is \$250,000. However, State of Louisiana R.S. 38 (Title 38 Public Bid Law) requires that all purchases exceeding \$30,000 be advertised and publicly bid.
- Plan for sixty (60) business days to place the order.
- Primary Goal: To obtain the best quality products and service at minimum cost.
- Secondary Goal: To guard against favoritism and profiteering at public expense.
- Tertiary Goal: To provide equal opportunities for potential parties to participate in public business.
- This method of procurement allows for free and open competition.
- Use this procurement method for:
  - 1) Goods and Services that are clearly defined;
  - 2) Construction Projects (follow R.S. 38 threshold); and
  - 3) Awards that can be made primarily based upon the price of the bid.
- Contracts that exceed \$250,000 shall be awarded by sealed bid unless there is an explicit exception.
- An independent estimate is required for purchases exceeding \$250,000.
- The Lake Charles City Council is required to approve purchases of materials that exceed \$30,000.
- Advertise Invitation for Bid or Request for Proposals if the independent estimate exceeds \$30,000.
- After the bids are received, the City Council is required to award contracts over \$30,000 through an agenda item.
- In order for sealed bidding to be feasible, the following conditions must be present:
  - 1) A complete, adequate, and realistic specification or purchase description is available;
  - 2) Two or more responsible bidders are willing and able to compete effectively for the business;
  - 3) The procurement lends itself to a firm fixed price contract, and the successful bidder can be selected principally on the basis of price;
  - 4) No discussion with the bidders is needed.
- Large Purchases require the following:
  - 1) Publicly advertise the Invitation for Bids, and solicit bids from an adequate number of known suppliers, and provide them sufficient time to prepare bids prior to the date set for opening the bids;
  - 2) The Invitation for Bids shall include specifications and pertinent attachments, and shall define the items or services sought so the bidder can properly respond;

- 3) Award a firm fixed-price contract (lump sum or unit price) in writing to the lowest responsive and responsible bidder whose bid conforms with all the material terms and conditions of the Invitation For Bids. Factors such as discounts, transportation costs, and life cycle costs shall be considered in determining the lowest bid;
  - 4) Any or all bids may be rejected based upon a sound documented business decision.
- CoLC may not restrict competition by:
    - 1) Placing unreasonable requirements on firms in order for them to qualify to do business;
    - 2) Having an organizational conflict of interest;
    - 3) Requiring vendors to have unnecessary experience or unnecessary bonding; or
    - 4) Giving preference in the evaluation of bids to in-state or local businesses, except in those cases where federal statutes expressly mandate or encourage geographic preference. (This does not preempt State licensing law.)

#### 3.3.1 Steps Involved in Making Large Purchases

When making a large purchase that exceeds \$250,000, complete each of the steps in "Small Purchases Exceeding \$30,000."

### 3.4 COMPETITIVE PROPOSALS (REQUEST FOR PROPOSALS)

- Plan for sixty (60) business days to place the order.
- Requests for Proposals are used to procure revenue contracts, architectural and engineering services, technology, legal services, accounting services, insurance and in cases where the quality of the service outweighs price.
- The competitive proposal method is normally conducted with more than one source submitting an offer (proposal).
- Request for Proposals must meet the following four requirements:
  - 1) Requests for Proposals must be publicized. Include all evaluation factors in the published notification and their relative importance.
  - 2) Proposals will be solicited from an adequate number of qualified sources.
  - 3) Develop a method to evaluate the proposals in order to select a vendor.
    - Cost shall be evaluated separately.
    - Proposer shall submit cost in separate envelope which will be evaluated and scored by Finance.
    - Scoring shall be based on the following:
      - Put cost in order from lowest to highest
      - Lowest cost receives full percentage score
      - Score each of the remaining costs based on the percentage difference between the cost and the lowest cost (for example: 10% higher than the lowest, percentage score is 10% lower than full percentage available)



- 4) Make contract awards to responsible firms whose proposals are the most advantageous to the grantee's program considering price and other factors.
- A cost analysis is required.
  - Proposers may be required to submit corporate financial data and labor rates which proposers usually regard as privileged information. Therefore, treat all documentation received in response to Requests for Proposals as confidential. Should the need arise to share the contents of the proposal with another company or firm, first acquire permission in writing from a responsible official of the proposing firm. Dissemination of proposals within City of Lake Charles will be done in a manner so that only staff with a demonstrable "need to know" have access to the proposals.
  - An independent estimate is required for purchases exceeding \$250,000.
  - The Lake Charles City Council is required to approve purchases of materials that exceed \$30,000.
  - Advertise all Request for Proposals
  - After the proposals are received, the City Council is required to award contracts over \$30,000 through an agenda item.

#### 3.4.1 Steps Involved in Procuring Through Request for Proposals

Complete each of the following steps when soliciting proposals.

- \_\_\_ Step 1 Obtain budget approval and enter requisition.
- \_\_\_ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the Master Project File throughout the project. Contact Engineering Department for a construction project and follow steps in Section 3.6.
- \_\_\_ Step 3 Determine whether or not the purchase, service or construction project exceeds \$30,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- \_\_\_ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- \_\_\_ Step 5 If the independent estimate for a purchase exceeds \$30,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.

- \_\_\_\_ Step 6 Prepare the Specifications and Request for Proposal Package. The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow proposers to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not. The buyer may directly contact manufacturers to get assistance with identifying specifications. Document these transactions via a memorandum for the file.
- \_\_\_\_ Step 7 Prepare the Request for Proposal (RFP) and specify the required and desired elements. Specify the weights that will be used to evaluate the proposals, (e.g., technical 40%, cost 20%, customer service 15%, training 15%, experience 10%). Include the evaluation process in detail, the scoring methodology, and procedures to weigh price into selection. The RFP may also contain the statement, "The award of this contract may be made on the basis of initial proposals submitted without any negotiations or discussions." If necessary in order to obtain firm commitments from proposers, you may wish to require that the offerors provide a proposal guaranty in the form of a letter of credit, cashier's check, or approved performance bond.
- \_\_\_\_ Step 8 The **advertisement** for the request for proposal must be published in the City's official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. **Place the legal notice(s) in the file.** The advertisement must contain the following:
- ~The description of the work, goods, or services to be procured;
  - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
  - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
  - ~Evaluation criteria
  - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).

- \_\_\_ Step 9 Send the advertisement to third parties on the CoLC Proposer List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the DBE CoLC Vendor Listing.
- \_\_\_ Step 10 Send proposal packages to third parties requesting bid packages. List the vendors requesting packages on the Proposal Summary.
- \_\_\_ Step 11 Date and time stamp the sealed proposals as received.
- \_\_\_ Step 12 Keep a list of the responding vendors on the Proposal Summary. Keep sealed proposals in a secure place until the opening.
- \_\_\_ Step 13 At the designated time and place, formally open and read aloud the sealed proposals.
- \_\_\_ Step 14 Record the proposals on the Proposal Tabulation.
- \_\_\_ Step 15 Any sealed proposals that reach CoLC after the opening time and date must be mailed back to the source without opening.
- \_\_\_ Step 16 Complete the *Cost Analysis Documentation* (Form B-6). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.
- \_\_\_ Step 17 Select the lowest, most responsive proposal that meets the specifications as stated in the Request for Proposals. Complete *Determination of Best Value* (Form B-8) and/or *Memorandum of Negotiations* (Form B-13). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Request for Proposals): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.
- \_\_\_ Step 18 Complete the *Sole Source Procurement Justification* (Form B-7) if no quotes were obtained.
- \_\_\_ Step 19 If none of the proposals are selected, document the reasons and start the process over. The specifications may need to be amended. If a single proposal or single responsive proposal is received, determine fair and reasonableness of the proposal and whether or not to accept the proposal or reject the proposal and begin the process again or abandon the project. Do not negotiate bids as in a sole source procurement.



- \_\_\_ Step 20 **\*\*PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT\*\***  
Review System for Award Management ([www.sam.gov](http://www.sam.gov)) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- \_\_\_ Step 21 Attach all required FEMA clauses and certifications and send to vendor with purchase order.
- \_\_\_ Step 22 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed
- \_\_\_ Step 23 Make the purchase

#### 3.4.2 Procurement of Architectural and Engineering Services (A&E)

**To procure Architectural and Engineering Services, follow the procurement steps outlined above for Competitive Proposals (Request for Proposals) in Section 3.4.**

- When Contracting for Architectural, Professional Engineering Services, and Land Surveying, use the competitive proposal procedures.
  - 1) An offeror's qualifications be evaluated and selection is based upon qualifications not price;
  - 2) Price be excluded as an evaluation factor although the price must be fair and reasonable;
  - 3) Negotiations be conducted with only the most qualified offeror; and
  - 4) Failing agreement on price, negotiations with the next most qualified offeror are conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.
- Initial selection shall be based only on the demonstrated competence and qualifications of the person, including any firm, who is to provide the services. **Price and/or number of staff-hours must not be asked for or discussed during the initial selection phase**
- This "qualifications based procurement method" can only be used for the procurement of A&E services. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services. These requirements apply except to the extent any state adopts or has adopted by statute a formal procedure for the procurement of architectural and engineering services.
- Other types of services considered A&E services include program management, construction management, feasibility studies, preliminary engineering, design, surveying, mapping, and services which require performance by a registered or licensed architect or engineer.
- Develop Scope of Work.

- Choose the contract type most appropriate for the project such as fixed price or labor hour contract.
- Requests for Qualifications must be publicized. Include all evaluation factors in the published notification.
- Select the most qualified firm from this pool of firms based upon criteria established and published.

**To procure Architectural and Engineering Services, follow the procurement steps outlined above for Competitive Proposals (Request for Proposals) in Section 3.4.**

### **3.5 SOLE SOURCE PROCUREMENTS**

- Sole Source procurements are accomplished through solicitation or acceptance of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. A contract amendment or change order that is not within the scope of the original contract is considered a sole source procurement that must comply with the following:
  - 1) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and at least one of the following circumstances applies:
    - a) The item is available only from a single source (e.g. utilities, when only one entity owns the patent on the process or product required);
    - b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
    - c) After solicitation of a number of sources, competition is determined inadequate; or
    - d) The item is an associated capital maintenance item that is procured directly from the original manufacturer or supplier of the item to be replaced. The grantee must first certify in writing that such manufacturer or supplier is the only source for such item; and that the price of such item is no higher than the price paid for such item by like customers.
  - 2) the data, and the evaluation of the specific elements of costs and profit, is required.
  - 3) Avoid Sole Source procurements except in circumstances where it is both necessary and in CoLC's best interest.
  - 4) Make sure the item or service is needed to meet a requirement and is not merely desired as something "nice to have."

### 3.5.1 Steps Involved in Sole Source Procurements

Complete the following steps when making a Sole Source Procurement. You may have already performed Steps 1 through 6 if (d) above "After solicitation of a number of sources, competition is determined inadequate," is the reason for the sole source method of procurement.

- \_\_\_ Step 1 Obtain budget approval and enter requisition.
- \_\_\_ Step 2 Via e-mail, notify the Purchasing Manager about the purchase and include a description. Work closely with the Purchasing Manager to complete and file forms in the Master Project File throughout the project.
- \_\_\_ Step 3 Determine whether or not the purchase, service, or construction project exceeds \$30,000 by completing the *Independent Cost/Price Estimate* (Form B-3).
- \_\_\_ Step 4 Complete *Justification for Contract Type* (Form B-4) to determine the contract type.
- \_\_\_ Step 5 If the independent estimate for a purchase exceeds \$30,000, the purchase must be approved by the City of Lake Charles City Council. Prepare an agenda item for the Agenda Meeting.
- \_\_\_ Step 6 Prepare the Specifications and Bid Package. The buyer must still identify the minimum needs and clearly describe the essential physical and functional characteristics of the brand name product. If you must use a brand name in your specification, you may allow bidders to substitute an equal product with a different brand name. You may reserve the right to determine whether a particular brand or model is equal to the one you specified. If you use a brand name and allow equal brands, you must also specify the salient characteristics of the specified brand that will be among the criteria used in determining whether a suggested substitute is equal to the specified brand or not. The buyer may directly contact manufacturers to get assistance with identifying specifications. Document these transactions via a memorandum for the file.



- \_\_\_ Step 7 The advertisement for the small purchase competitive sealed bid must be published in the City's official journal at least twice, (once a week for two consecutive weeks) indicating the deadline date, time, and place by which bids will be received, and the date, time, and place where bids will be opened. Place the legal notice(s) in the file. The advertisement must contain the following:
  - ~The description of the work, goods, or services to be procured;
  - ~The location at which the bidding documents, plans, specifications, or other documents may be examined by all bidders and time and place of the pre-bid conference (set the pre-bid conference a minimum of ten days after the first notice publication.
  - ~The date, time, and place for submitting bids and the date, time (including time zone), and place for the opening of competitive sealed bids.
  - ~DBE program requirements or goals (2 C.F.R. § 200.321) (attach form B-12).
- \_\_\_ Step 8 Send the advertisement to third parties on the CoLC Bidder List (list of businesses interested in competing for various types of contracts and/or purchases) and the vendors on the CoLC DBE Vendor Listing
- \_\_\_ Step 9 Send bid packages to third parties requesting bid packages. List the vendors requesting bid packages on the Bid Summary.
- \_\_\_ Step 10 Date and time stamp the sealed bids as received.
- \_\_\_ Step 11 Keep a list of the responding vendors on the Bid Summary. Keep sealed bids in a secure place until the bid opening.
- \_\_\_ Step 12 At the designated time and place, formally open and read aloud the sealed bids.
- \_\_\_ Step 13 Record the bids on the Bid Tabulation.
- \_\_\_ Step 14 Any sealed bids that reach City of Lake Charles after the bid opening time and date must be mailed back to the source without opening.
- \_\_\_ Step 15 Complete the *Cost/Price Analysis Documentation for Small and Large Purchases* (Form B-5). This form certifies that adequate price competition was obtained by comparison of quotations and the low price is fair and reasonable.

- \_\_\_ Step 16 Select the lowest, most responsive bid that meets the specifications as stated in the Invitation to Bid. Complete *Determination of Best Value* (Form B-8). In determining which products or services are in CoLC's best interest, the agency may consider the following factors (if stated in the Invitation for Bids): installation costs and hardware costs; the overall life cycle cost of the requested equipment; the estimated cost of employee training and estimated increase in employee productivity; estimated software and maintenance costs; and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. These factors are not the only ones you may use. Attach information to the agency file for future clarification of the award.
- \_\_\_ Step 17 If the lowest bid is not selected, document the reasons for the selection on the *Determination of Best Value* (Form B-8). If none of the bids are selected, document the reasons and start the bidding process over. The specifications may need to be amended. If a single bid or single responsive bid is received, determine fair and reasonableness of the bid and whether or not to accept the bid or reject the bid and begin the process again or abandon the project. Do not negotiate bids as in a sole source procurement.
- \_\_\_ Step 18 Complete *Sole Source Procurement Justification* (Form B-7).
- \_\_\_ Step 19 **\*\*PRIOR TO AWARD AND ISSUANCE OF PO/CONTRACT\*\***  
Review System for Award Management ([www.sam.gov](http://www.sam.gov)) for potential disbarred and/or suspended vendors. Print the page that shows no active exclusions for the recommended vendor.
- \_\_\_ Step 20 Attach all required FEMA clauses and certifications and send to vendor with purchase order.
- \_\_\_ Step 21 Attach all completed forms to the requisition along with any other attachments (quotations, photocopies of catalogue pages, advertisements, etc.) to be filed.
- \_\_\_ Step 22 Make the purchase.

## CHAPTER 4 – BID PACKAGE AND REQUEST FOR PROPOSAL PROCEDURES

This chapter identifies recommended elements to be included in Invitation to Bid (ITB) Packages and Requests for Proposals (RFP). Much of this chapter includes information found in the City of Lake Charles' Purchasing Manual.

### 4.1 INVITATION TO BID PACKAGE

Bid Packages will contain all or some of the following sections:

- 1) Cover Page including the following items:
  - \_\_\_\_\_ Invitation to Bid Number and the item to be procured
  - \_\_\_\_\_ CoLC mailing address and physical address
  - \_\_\_\_\_ Date that the Invitation to Bid is issued
  - \_\_\_\_\_ Bid Closing Date
  - \_\_\_\_\_ Bid Closing Time (indicate the prevailing local time)
  - \_\_\_\_\_ Pre-Bid Meeting Date
  - \_\_\_\_\_ Pre-Bid Meeting Time (indicate the prevailing local time)
  - \_\_\_\_\_ CoLC contact's name and telephone number
  - \_\_\_\_\_ A space for the bidder's name and address
  - \_\_\_\_\_ Description of Invitation to Bid
  - \_\_\_\_\_ Section for the Bidder's signature
- 2) Purchasing Rules and Regulations, Rolling Stock Specifications (if applicable) Specifications, Bid Proposal Page, Insurance Requirements, FEMA Clauses and Certifications, and any additional required documentation.

*Introduction and General Information* – Purpose and the history or background of the service. A general statement of the minimum experience and qualifications required of the contractor are also usually included in the introduction. For commodities, state the intended use of the item and the name of the using department.

- \_\_\_\_\_ Scope – Explain what CoLC expects to accomplish from the contract. Give a brief overview of the work required and define the extent of the service to be provided and the contract term.
- \_\_\_\_\_ Contract Documents
- \_\_\_\_\_ Notice, Waiver, and Applicable Law
- \_\_\_\_\_ **Compliance with Federal Requirements**
  - \_\_\_\_\_ General Compliance
  - \_\_\_\_\_ Wage Price Regulations
  - \_\_\_\_\_ FEMA Clauses and Certifications



### *Instructions to Bidders*

- \_\_\_\_\_ Pre-Bid Conference (if applicable)
  - \_\_\_\_\_ Pre-Bid Conference Date, Time, and Location
  - \_\_\_\_\_ Attendance: Bidder's Responsibility, Non Mandatory
  - \_\_\_\_\_ Accommodations for Persons with Disabilities
  - \_\_\_\_\_ Pre-Bid Conference Agenda
- \_\_\_\_\_ Bid Submittal
  - \_\_\_\_\_ Delivery procedures, Time, and Date
  - \_\_\_\_\_ Bid Requirements and Format (number of copies, sealed, etc.)
  - \_\_\_\_\_ Pre-Award Investigation
  - \_\_\_\_\_ Bid Preparation Costs
  - \_\_\_\_\_ Bid Acceptance Period
  - \_\_\_\_\_ Modification of Bid
  - \_\_\_\_\_ Withdrawal of Bid
  - \_\_\_\_\_ Samples
- \_\_\_\_\_ Clarification of Requirements
- \_\_\_\_\_ Addenda and Modifications
- \_\_\_\_\_ Protest Procedures
  - \_\_\_\_\_ General Protest Procedures
  - \_\_\_\_\_ Pre-Bid or Solicitation Phase Protest
  - \_\_\_\_\_ Pre-Award Protest
  - \_\_\_\_\_ Post-Award Protest
  - \_\_\_\_\_ Appeals
- \_\_\_\_\_ Service and Parts
  - \_\_\_\_\_ Location of nearest technical service representative to CoLC
  - \_\_\_\_\_ Location of nearest parts distribution center to CoLC
  - \_\_\_\_\_ Policy for delivery of parts and components to be purchased for service and maintenance
- \_\_\_\_\_ Payment – The ITB may not include a ceiling budget or price, however, it may specify options that effectively limit the amount of funds CoLC will spend
  - \_\_\_\_\_ Payment schedule
  - \_\_\_\_\_ Sales Tax Exemption
- \_\_\_\_\_ Contractor qualifications including description of experience
- \_\_\_\_\_ Licenses, Permits, Taxes
- \_\_\_\_\_ Information and Reports
- \_\_\_\_\_ Alternative Bid – Permission, if any, to submit alternative bids, including alternative material or design. The alternative bid must be in addition to the basis bid.
- \_\_\_\_\_ Equal Employment Opportunity
- \_\_\_\_\_ Disadvantaged Business Enterprise (DBE) Requirements
  - \_\_\_\_\_ Equal Opportunity to Submit Bid
  - \_\_\_\_\_ DBE Definition

- \_\_\_\_\_ Conflict of Interest
  - \_\_\_\_\_ Prohibited Interest
  - \_\_\_\_\_ Disclosure of Conflicts of Interest
  - \_\_\_\_\_ Interest of Members of or Delegates to Congress
  - \_\_\_\_\_ Covenant Against Contingent Fees
  - \_\_\_\_\_ Covenant Against Gratuities
- \_\_\_\_\_ Authorization to Bind Submitter of Bid
  - \_\_\_\_\_ Bidder Name, Address, Office Signature
  - \_\_\_\_\_ Integral Part of the Contract
- \_\_\_\_\_ Factors and Requirements to be considered in the evaluation of bids  
(including shipping costs and how each factor will be evaluated)
- \_\_\_\_\_ Notice of Award
- \_\_\_\_\_ Notice of Acceptance of Award
- \_\_\_\_\_ Changes by Contractor
- \_\_\_\_\_ Time Extension
- \_\_\_\_\_ Liquidated Damages
  - \_\_\_\_\_ Liquidated Damages Compensation
  - \_\_\_\_\_ Delays Beyond the Contractor's Control
- \_\_\_\_\_ Contractor's Liability
- \_\_\_\_\_ Approval by the Purchasing Manager
- \_\_\_\_\_ Defective or Damaged Work
- \_\_\_\_\_ Damages
- \_\_\_\_\_ Penalty for Failure to Complete Contract
- \_\_\_\_\_ Infringements of Patents
- \_\_\_\_\_ Assignment
- \_\_\_\_\_ Warranty of Title
- \_\_\_\_\_ Compliance with Laws and Regulations
  - \_\_\_\_\_ Specifications (Omission and Priority)
  - \_\_\_\_\_ Modifications to Contract: Price Adjustment for Regulatory Changes
  - \_\_\_\_\_ Interchangeability
  - \_\_\_\_\_ Materials/Accessories Responsibility
  - \_\_\_\_\_ Service and Parts (Instructors, Engineers, Documents, and Spare Parts)
  - \_\_\_\_\_ Deliveries (Assumption of risk of loss, acceptance)
  - \_\_\_\_\_ Repairs after non-acceptance
  - \_\_\_\_\_ Patents
  - \_\_\_\_\_ Brand Names
  - \_\_\_\_\_ Past Performance
  - \_\_\_\_\_ Financial Stability
  - \_\_\_\_\_ Safety Certification
  - \_\_\_\_\_ Performance Data
  - \_\_\_\_\_ Specified Parts

- \_\_\_\_\_ Specifications and Brand Names
  - \_\_\_\_\_ Descriptive Not Restrictive
  - \_\_\_\_\_ Certify Equivalency
  - \_\_\_\_\_ Minor Deviations
  - \_\_\_\_\_ Approved Brand List
  - \_\_\_\_\_ Samples
- \_\_\_\_\_ FEMA Clauses and Certifications. The clauses can be found at in Appendix II to 2 CFR part 200 at <https://www.ecfr.gov/>.
- \_\_\_\_\_ Bid Opening
  - \_\_\_\_\_ Bid Opening Date, Time, and Location
  - \_\_\_\_\_ Bid Opening Postponement, Amendment and Addenda
  - \_\_\_\_\_ Public Opening of Bids
  - \_\_\_\_\_ Rejection of Bids
  - \_\_\_\_\_ Single Bid
- \_\_\_\_\_ Examination of Documents and Requirements
  - \_\_\_\_\_ Examination of ITB Documents
  - \_\_\_\_\_ Bidder responsibility to examine conditions and requirements
  - \_\_\_\_\_ Evidence of responsibility
  - \_\_\_\_\_ Verify submission of required certifications (Lobbying, etc.)
- \_\_\_\_\_ Award Procedure
- \_\_\_\_\_ Review SAM and print screen with results for master file
- \_\_\_\_\_ Execution of Contract and Bonds
  - \_\_\_\_\_ Time Period for Execution of Contract and Filing Bonds
  - \_\_\_\_\_ Performance Bond (for contracts exceeding \$25,000), and Payment Bond (for contracts utilizing subcontractors and exceeding \$25,000) Requirements, if any
  - \_\_\_\_\_ Bond Issued by Corporate Surety
  - \_\_\_\_\_ Contract Commencement Date
  - \_\_\_\_\_ Acceptance
  - \_\_\_\_\_ Contract Termination for Convenience
  - \_\_\_\_\_ Contract Termination for Default
  - \_\_\_\_\_ Effect of Extensions of Time
  - \_\_\_\_\_ Waiver
  - \_\_\_\_\_ Delivery of Goods and Service
  - \_\_\_\_\_ Delivery Procedures
  - \_\_\_\_\_ Delivery Schedule

- 3) Sufficient detail to permit open, full and free competition and should include methods and timing of testing and inspecting. (See Section 4.4 for more detail).



*Technical Specifications* – Include the following requirements as needed:

- \_\_\_\_\_ Design Features and Requirements: List all design requirements, including materials, manufacturing standards and directions, dimensions, physical characteristics of all kinds, and workmanship standards.
- \_\_\_\_\_ Performance Requirements and Characteristics: List all functional needs and performance requirements and include work-related needs which the item must achieve.
- \_\_\_\_\_ Other Requirements: List any requirements not covered in the first two sections.

- 4) Specifications: a description of the supplies or services to be furnished in *Applicable Documents* – List all documents, plans, drawings, specifications, etc., that have been referenced in the specification, including title, edition or issue number, year of publication and publisher or originating organization. If necessary, state where the document(s) are located.

*Definitions* – Define technical and critical terms where necessary.

- 5) Addenda as issued.

- 6) Legal Documents and Other Documents.

#### **4.2 REQUEST FOR PROPOSALS PACKAGE**

Request for Proposals packages will contain all or some of the following sections.

- 1) Cover Page including the following items:
- \_\_\_\_\_ RFP Number (assigned by the Purchasing Manager) and the item or service to be procured
  - \_\_\_\_\_ CoLC mailing address and physical address
  - \_\_\_\_\_ Date that the RFP is issued
  - \_\_\_\_\_ RFP Closing Date
  - \_\_\_\_\_ RFP Closing Time (indicate the prevailing local time)
  - \_\_\_\_\_ Pre-Proposal Meeting Date
  - \_\_\_\_\_ Pre-Proposal Meeting Time (indicate the prevailing local time)
  - \_\_\_\_\_ CoLC Contact's name and telephone number
  - \_\_\_\_\_ A space for the proposer's name and address
  - \_\_\_\_\_ Description of RFP/Project Title
  - \_\_\_\_\_ Section for proposer's authorized signature

*Instructions to Offerors*

- 2) Purchasing Rules and Regulations, Rolling Stock Specifications (if applicable), Specifications, Bid Proposal Page, Insurance Requirements, Any Additional Required Documentation.

- \_\_\_\_\_ Proposal Delivery, Time & Date
- \_\_\_\_\_ Pre-Proposal Conference
- \_\_\_\_\_ Clarification of Requirements
- \_\_\_\_\_ Addenda & Modifications
- \_\_\_\_\_ Examination of Documents and Requirements
- \_\_\_\_\_ Proposal Copies
- \_\_\_\_\_ Proposal Preparation Costs
- \_\_\_\_\_ Disadvantaged Business Enterprise (DBE) Requirements
- \_\_\_\_\_ Conflict of Interest
- \_\_\_\_\_ Anti-Lobbying Provision
- \_\_\_\_\_ Authorization to Bind Submitted of Proposal
- \_\_\_\_\_ Evaluation Process
- \_\_\_\_\_ Selection
- \_\_\_\_\_ Award Procedure and Contract
- \_\_\_\_\_ Equal Employment Opportunity
- \_\_\_\_\_ Competitive RFP Procedures for Architectural and Professional Engineering Services Contract Costing more than \$15,000 (Use only if needed)
- \_\_\_\_\_ Architecture and Professional Engineering Services Contracts for Services Costing less than \$25,000 (Use only if needed.)
- \_\_\_\_\_ **Intent**
- \_\_\_\_\_ Project Description – History or background of the item or service to be procured. Describe the project in detail, using department, etc.
- \_\_\_\_\_ Purpose of the Project – Describe how CoLC will use the product or service.
- \_\_\_\_\_ Scope of Work – Provide a brief overview of the work required and define the extent of the service to be provided. Describe the function of the project management team.
- \_\_\_\_\_ Duration of Contract
- \_\_\_\_\_ **Options**
- \_\_\_\_\_ Project Methodology
- \_\_\_\_\_ Evaluation Criteria, Proposal Evaluation Criteria Form
- \_\_\_\_\_ Proposal Format
- \_\_\_\_\_ **FEMA** Clauses and certifications. The clauses can be found at in Appendix II to 2 CFR part 200 at <https://www.ecfr.gov/>.
- \_\_\_\_\_ Addenda as issued
- \_\_\_\_\_ Legal Documents or Other Documents

#### 4.4 SPECIFICATIONS

Specifications provide clear guides to purchasing and provide vendors with firm criteria of minimum product or service acceptability. A specification is a concise statement of a set of requirements to be satisfied by a product, material, or a process indicating, whenever appropriate, the procedure by means of which it may be determined whether the requirements given are satisfied. As far as practicable, it is desirable that the requirements be expressed numerically in terms of appropriate units together with their limits. Specifications are intended to serve as a means of assuring that the items purchased have the desired quality and performance characteristics.

##### 4.4.1 Specification Criteria

A good specification has four characteristics:

- 1) **It sets the minimum acceptability of the good or service.** The term "minimum acceptability" is key, since the vendor must know the minimum standard in order to determine what to provide. Too high a standard means tax dollars will be wasted. Too low a standard means the good or service will not meet the user's expectations. Standardization is the process of establishing agreement on the characteristics and quality of the products to be purchased. The justification for any standardization program is savings. Some of the cost reduction features of a good standardization program are larger quantities of fewer goods categories, more economical buying, flexibility of inventory, reduction of purchasing time, lower departmental operating costs, and reduced inventories.
- 2) **It should promote competitive bidding.** The maximum number of responsible vendors should be able to bid to the specification. Restrictive specifications decrease competition.
- 3) **It should contain provisions for reasonable tests and inspections for acceptability of the good or service.** The methods and timing of testing and inspecting must be indicated in the specification. Whenever possible, tests should refer to nationally recognized practices and standards.
- 4) **It should provide for an equitable award to the lowest responsible and responsive bidder.** The buyer obtains goods or services that will perform to expectations, and the vendor is able to provide the goods or services at an equitable agreed price.



Use the following checklist to ensure that a specification meets the four criteria stated above.

- \_\_\_\_\_ It is simple, consistent, and specific enough that a loophole will not allow a bidder to evade any of the provisions and thereby take advantage of competitors or CoLC.
- \_\_\_\_\_ The specification includes a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use.
- \_\_\_\_\_ Detailed product specifications should be avoided if at all possible.
- \_\_\_\_\_ It identifies, when possible, several brand names or a specification already on the market. When brand names are used, the bid shall clearly indicate that the intent is not to restrict competition and that other brands and models of the same general type and function will be acceptable. A "brand name or equal" description may be used only when CoLC cannot provide an adequate specification or more detailed description without performing an inspection and analysis in time for the acquisition under consideration. Further, if a "brand name or equal" is used, the specification must carefully identify the minimum needs and clearly set forth those salient physical and functional characteristics of the brand name product in the solicitation. Include an "or equal" or "or approved equal" clause to safeguard against restricting competition. Specifications shall not be restrictive to a single brand or vendor or be labeled "NO SUBSTITUTE." If such restriction is necessary, a sole-source purchase is involved and requires a detailed justification that describes why only one supplier or brand can fill the need. This justification shall contain specific information regarding the peculiarities of the purchase, such as a supplier's unique capability, critical time schedules, which cannot be met by other suppliers, or patent/copyright considerations.
- \_\_\_\_\_ Describe the method of checking the specification, which will govern acceptance or rejection. A specification which cannot be checked is of little value, and where checking methods vary in accuracy, only confusion can result.
- \_\_\_\_\_ Allow for reasonable tolerances. Unnecessary precision is expensive.
- \_\_\_\_\_ The specification is as fair to the vendor as possible.
- \_\_\_\_\_ Several bidders are capable of meeting the specification for the sake of competition.
- \_\_\_\_\_ The specification is clear. Misunderstandings are expensive. The specification must be understandable to both the vendor and the CoLC department that will use the product or service.

#### 4.4.2 Where to Obtain Specifications

The CoLC department may have to write its own specifications. However, it is recommended that departments attempt to obtain existing specifications, at least to get some ideas. Specifications may be obtained from the following sources:

- Other local governments - Contact cities, counties or other governmental entities. Your best friends are other governmental purchasing agents.
- The state government
- Trade associations and vendors. If using vendor's specifications, try to remove any "vendor bias", e.g. specifications which fit only one brand name.
- Other public or private standards and specifications writing associations - such as Underwriters Laboratories, American National Standards Institute.
- Professional associations for procurement managers - such as National Purchasing Institute, National Institute for Governmental Purchasing.

#### 4.4.3 Types of Specifications

The below are the most commonly used types of specifications. A single specification may be a combination of two or more of these types, especially the first two.

- **Design Specifications** – detailed descriptions of a good or service, including such things as details of construction or production, dimensions, chemical composition, physical properties, materials, ingredients and all other details needed for the provider to produce an item of minimum acceptability. Design specifications are usually required for construction projects and custom produced items and for many services.
- **Performance Specifications** – where the goods and/or services are described in terms of required performance. They may include such details as required power, strength of material, test methods and standards of acceptability and recommended practices.
- **Combination Specifications** – contains elements of both design and performance specifications. Some features of each are included to allow a vendor to use ingenuity to meet performance needs and also to require certain necessary design characteristics. This is probably the most common type of specification.
- **Brand-Name Specifications** – list a good or service by brand name, model, and other identifying specifics, in order to limit the bidding to a single preferred product. Since this type of specification discourages competition, it should not be used unless the item is the only one which will satisfy requirements. This type of specification is useful for purchasing replacement parts where only the brand name item will work.
- **Brand-Name or Equal Specifications** – similar to brand-name specifications, except that products equal to the characteristics of the named brand are specified as acceptable.



- **Qualified Products List Specifications** – based on a list of products, identified by manufacturers' name and model numbers, which are the only items that will be acceptable. These are used when quality is such a critical factor and testing so lengthy or expensive that CoLC wants to stay with proven products. The list is prepared by testing products, either in the lab or in daily use. Items may be added to the list by the vendor demonstrating their quality in comparison to those on the list.
- **Standard Specifications** – a single specification for one or more goods/services that are ordered on a recurring basis and that have the same general purpose. The same specification is used each time an order is placed or bids are advertised. Examples are office supplies, paper, janitorial supplies and copier service contracts. Standardized specifications will usually be more complete and detailed than one-time specifications.
- **Qualified Bidder** – Specifying the minimum qualifications that a bidder must meet in order to be eligible for award is used primarily for major construction projects and service contracting. Experience, references, qualifications, and evidence of financial stability required of each bidder must be completely described. Avoid using qualification criteria that are not based on a contractor's ability to provide the service or that limit competition.

#### 4.4.4 Specification Writing

Try to obtain an existing specification before starting to write a new one, you will almost always have to do some specification writing or rewriting. This section will help you accomplish this task as simply and efficiently as possible.

- 1) Determine that an acceptable specification is not available and a new one must be written or an old one must be revised.
- 2) Gather data for the specification. Sources are:
  - a. Using department - Determine their needs and requirements;
  - b. Vendors and manufacturers;
  - c. Trade associations for that commodity, service or product;
  - d. Other local government, state, federal specifications and standards;
- 3) Analyze and evaluate the data based on the government's requirements.
- 4) Decide on parameters for the item of service and set minimum levels of acceptance so that the items purchased will meet the needs.
- 5) Write the proposed specification. Use a standard format for all specifications to ensure uniform preparation and to promote easier understanding by users of the specification.
  - a. Specifications should always be written to encourage competition by containing as little restrictive language as possible.
  - b. Use U.S. Industry and national standards and measures where appropriate to describe the items.
- 6) Where applicable, and especially for standardized specifications, circulate the specification to:
  - a. All potential users
  - b. Buyers in the purchasing office

Request their comments. Users should comment on unsatisfactory aspects of the specification to avoid protests later.



- 7) Analyze and evaluate comments on the proposed specification:
  - a. Tabulate recommended changes
  - b. Evaluate the effect on proposed specification
  - c. Discuss with users and buyers
- 8) Change proposed specification, and
  - a. If necessary, re-circulate new proposed specification. Go back to Step 6,  
or
  - b. If only minor changes, prepare final version.
- 9) Assign specification number.

## CHAPTER 5 – DISPUTE AND PROTEST PROCEDURES

Grantees alone will be responsible in accordance with good administrative practice and sound business judgment for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the grantee of any contractual responsibility under its contracts. Violations of the law will be referred to the local, State, or Federal authority having proper jurisdiction. In all instances, CoLC shall disclose information regarding protests upon request by any local, State or Federal authority.

Potential bidders, contractors, or proposers can lodge written protests as a remedy to correct a perceived wrong that may have **occurred** during the procurement process. CoLC will accept and review the protest with the understanding that the integrity of the procurement process may be at stake. CoLC will use the below procedures to resolve disputes.

All protests lodged by potential or actual bidders, contractors, or proposers must be made in writing and contain the following information:

- 1) Name, address, and telephone number of the protester.
- 2) Identification of the solicitation or contract number and title.
- 3) A detailed statement of the protest's legal and factual grounds, including copies of relevant documents.
- 4) Identification of the issue(s) to be resolved and statement of what relief is requested.
- 5) Argument and authorities in support of the protest.
- 6) A statement that copies of the protest have been mailed or delivered to all interested parties in the Invitation to Bid or Request for Proposal process. In the case of Requests for Proposals, the Purchasing Manager shall direct the protester to mail or deliver the protest to relevant parties.

Mail the protest to:

Purchasing Manager  
City of Lake Charles  
P.O. Box 900  
Lake Charles, LA 70602

Overnight or hand deliver the protest to:

Purchasing Manager  
City of Lake Charles  
326 Pujo Street  
Lake Charles, LA 70601

Faxed or e-mailed protests will not be accepted.

The CoLC Purchasing Manager will respond, in written detail, counterclaims to each substantive issue raised in the protest. The Purchasing Manager will also perform the following analysis:

- 1) Price Analysis or Cost Analysis for each claim.
- 2) Technical Analysis to determine the validity of the claim(s) and determine the appropriate response(s).
- 3) Legal Analysis to consider all the factors available after the price, cost and technical analyses have been conducted to determine the contractor's, and CoLC's legal positions.

Purchasing Manager has the authority to render the final determination regarding the protest. Any determination rendered by City of Lake Charles will be final.

#### **5.1 PRE-BID OR SOLICITATION PHASE PROTEST**

A Pre-Bid or Solicitation Phase Protest must be received in writing by the CoLC Purchasing Manager a minimum of five (5) full work days prior to the bid opening or proposal due date. If the written protest is not received in the time specified, the award may be made following normal procedures, unless the Purchasing Manager, upon investigation, determines that remedial action is required on the grounds of fraud, gross abuse of the procurement process, or otherwise indicates substantial prejudice to the integrity of the procurement system, and said action should be taken. Within three (3) work days from the time the protest is received, the CoLC Purchasing Manager will notify all potential bidders, contractors, or proposers that a protest has been lodged and the nature of the protest. The Purchasing Manager will respond to the protest in writing within five (5) working days from the time the protest was received. If the Purchasing Manager decides to withhold the award pending the resolution of the protest, the Purchasing Manager may request a time extension for award acceptance from those bidders, contractors, or proposers whose bids or proposal might become eligible for award. This extension for award acceptance must be with the consent of sureties, if any, in order to avoid to the need for re-advertising.

CoLC will not make an award prior to five (5) working days after the protest is resolved, unless CoLC determines that:

- 1) The items or services to be procured are urgently required;
- 2) Delivery or performance will be unduly delayed by failure to make the award promptly; or
- 3) Failure to make the award will otherwise cause undue harm to CoLC

The Purchasing Manager will document this action and give written notice of the decision to proceed with the award to the Protester, and to other parties where deemed necessary.



## **5.2 PRE-AWARD PROTEST**

Protests may be lodged after the Bid Opening or Close of Request for Proposal deadline and prior to Notice of Award. Within three (3) work days from the time the protest is received, the Purchasing Manager will notify all potential bidders, contractors, or proposers that a protest has been lodged and the nature of the protest. The Purchasing Manager will respond to the protest in writing within five (5) working days from the time the protest was received. If the Purchasing Manager decides to withhold the award pending the resolution of the protest, the Purchasing Manager may request a time extension for award acceptance from those bidders, contractors, or proposers whose bids or proposal might become eligible for award. This extension for award acceptance must be with the consent of sureties, if any, in order to avoid the need to re-advertise.

CoLC will not make an award prior to five (5) working days after the protest is resolved, unless CoLC determines that:

- 1) The items or services to be procured are urgently required;
- 2) Delivery or performance will be unduly delayed by failure to make the award promptly; or
- 3) Failure to make the award will otherwise cause undue harm to CoLC

The Purchasing Manager will document this action and give written notice of the decision to proceed with the award to the Protester, and to other parties where deemed necessary.

## **5.3 POST-AWARD PROTEST**

Purchasing Manager will receive protests in writing within three (3) working days after the Notice of Award and letters of notification should have been received by bidders or proposers. Upon receipt of a protest, the Purchasing Manager shall notify the bidder or proposer awarded the contract. The Purchasing Manager will render a determination to proceed with the contract or suspend the project until the protest is resolved. The Purchasing Manager will respond to the protest in writing within five (5) working days after receipt of the protest.

## **5.4 APPEALS**

The Purchasing Manager has the authority to settle any dispute and resolve the protest. The Purchasing Manager may solicit written responses regarding the protest from other parties. If this course of action does not result in a satisfactory resolution, the Protester may appeal in writing to the CoLC Purchasing Manager within three (3) working days after the Purchasing Manager issues a final decision. The CoLC Purchasing Manager will issue a decision within five (5) working days after receipt of the appeal.

CoLC may elect to involve legal counsel or arbitration and mediation consultants to resolve the issue(s).

## CHAPTER 6 – CONTRACT NEGOTIATION

The Purchasing Manager or designee shall be responsible for all negotiations with proposers, and prospective contractors and shall obtain the necessary assistance from personnel involved in the procurement project and legal counsel.

### 6.1 COMPETITIVE NEGOTIATION

In order to procure Professional/Personal Services, Technology, and Architectural/Engineering (A&E) services, CoLC will issue Request for Proposals. All proposals except for A&E shall require both technical and cost proposals. CoLC shall solicit proposals from a minimum of three sources to ensure adequate competition. CoLC reserves the right and sole discretion to cancel the solicitation, without penalty. CoLC reserves the right to reject all proposals and resolicit or cancel the procurement if this action is considered to be in CoLC's best interest. CoLC also reserves the right to award the contract based upon initial submissions or on the basis of a best and final offer without conducting written or oral discussions if the solicitation specifically stipulates this reservation of CoLC's rights. Whenever CoLC enters negotiations with one proposer, CoLC must enter discussions with all proposers that submitted proposals within CoLC's predetermined price range, except in the case of A&E (see below). If CoLC does enter into negotiations, CoLC shall make the final selection at the conclusion of formal negotiations based upon the evaluation of best and final offers, unless CoLC decides to award the contract based upon initial submissions. It is critical to thoroughly document all correspondence and negotiations.

If procuring Architectural or Engineering services, CoLC will follow the procedures outlined in Section 3.4. CoLC will enter into negotiations with the most technically qualified firm to arrive at a fair and reasonable price. If an agreement cannot be reached, CoLC will enter negotiations with the next qualified firm on the list, and will proceed in this manner, until an award is made. If an agreement cannot be reached with a firm, the RFP process shall start over.

The CoLC Proposal Evaluation Team for the specific procurement will convene to evaluate and rank the proposals. If needed, the Evaluation Team may conduct oral interviews with the finalists. The questions to be asked during the interviews may be sent to the finalists a minimum of three (3) days prior to the interviews. The Evaluation Team shall then finalize the selection of proposers in descending order for the document file.

The Evaluation Team may then enter into detailed and carefully documented negotiations with each of the finalists. The negotiations shall consist of addressing the total proposed effort and contract terms and conditions. Avoid "auctioning" of prices (allowing vendors to lower their prices below their competitor's, and so on). After negotiating with each proposer, establish a schedule and deadline for the submission of "Best and Final Offers" which may include Technical and/or Cost/Price Proposals.

Upon receiving the "Best and Final Offers," reconvene the Evaluation Team. Perform a Cost Analysis on the submitted contract modifications, and decide which proposer should receive the contract award based either upon the final offers or the initial offers. Complete the procurement steps listed in section 3.4.1. Document the Evaluation Team's methodology to select a proposal.

If the Evaluation Team is unable to reach an agreement with the proposers, assess the reasons and either amend the Request for Proposals and send the amendments to the proposers with whom the Evaluation Team is negotiating, or formally cancel the solicitation and start over with a new Request for Proposals.



## **Appendix B – Standard Forms**