

Chapter 14,

Contents. We're gonna talk about intergovernmental agreements, we're going to talk about inter agency agreements for joint procurement activity, we're going to talk about joint venture partners and consortia. Methods of implementing; Well, when you do intergovernmental or inter agency agreements, or cooperative business relationships, you're typically going to get efficiency, economies of scale and efficiency by not repeating something like a bid that somebody else has done. You can contract directly with another government agency and it is exempt from competition. However, you still have to verify that the costs are appropriate. So what did I do? When they tore down my mechanic shop to do a hope six demo dispo, the boss says, Let's transfer those three employees in the mechanic shop out to other sites. One of them retired, two of them transferred, so we had no problem. I didn't do a bid though. What I did was I went over to the city yard that was about three blocks away and said, How much will you charge me to do work on my vehicles? And the guy at the city yard, now, the city of Las Vegas has 2000 employees, I had 400.

The city yard over there has hundreds of vehicles, I had about 50 or 60. He said, I will put you in the system as a city department, which we were, the mayor appointed our board anyway. So that was pretty easy to do. I will treat you as if you were a department and I will charge you \$50 an hour for any work I do on your cars. And then he gave me some really nice firm, fixed fees for oil changes and things like that. Materials would be cost plus 30%. And he said for good measure, if you wish, I can put you in our fueling system, we have fuel pumps all over the city and I will charge you an average of 30 cents a gallon, less than average pump prices that month. Wow, was my reaction, \$50 an hour? But I gotta prove it. I knew that was a great rate, but now I've got to prove it. So I called garages, and I think I called six or seven and says, What is your normal hourly rate? Not your bid rate. I'm not taking bids, your normal hourly rate. Nobody was under \$100 an hour. Cost plus 30% on parts, some of them are going cost plus 200. So I did an anecdotal survey, found out the pricing was really looking good. And that's what I did, I contracted directly with the city to do my work. City had a print shop, print bids were very hard to do. We were doing quotes for them every single time, trying to get all this stuff done. City print shop says, I'll do all your stuff for you, and I'll quote them all out.

Perfect, I contracted with the city. When we needed extra policing services at our sites, it's going to be very difficult, to get the same service from private security firms as I could get from the police. Though, the cost with the police was more expensive than the other. However, at that time we had drug elimination grants. How many of you have ever hired police services to do work at your sites? Yeah, a lot of places do. I hired the police, it did not require a contract. However, when I was touring one of my sites one night with the cops, two of my kids were cops, though they were not assigned to the site. It's conflict of interest. When I was touring the sites, they said, What are you doing in those units? I go, we're replacing cabinets. And they go, Ah, me and Bob here, we have a cabinet shop on the side. We'll get the sheriff to let us run the cabinets through them and you don't have to bid it, not appropriate. That is not a common good or service that they provide. When you go buy police department services, you're buying cop service and then that's it. I bought printing services from the city because they sold printing services to other government agencies and the price was much better than I was getting. I checked up, it was part of my analysis of the costs. However, the city only swept the outside of my sites with street sweepers. That's all they do. They would not go into our privately owned streets. So, I was going to get rid of our in-house street sweepers 'cause they were so darn expensive to maintain. And I got a price from the city yard for the street sweeping, and I go,

That sounds high. And I called a local firm and said, Look, go tour my sites, look at it. Let me know how much you'd charge me. I'm probably gonna have to do a bid, but I'd kinda like to get a ballpark figure. So he gave me a cost which I kept secret, a ballpark figure. It was a third of what the city was charging. Therefore it was not appropriate for me to contract with the city because the analysis of the cost proved that the city prices were too high. Are you with me? So, you only do work with the cities, with the government agency, when the prices are correct. I'll give you another one. In Texas one time, I had a HUD guy call me and says, Mike, do you have a RFP for managing a section eight department? I go, why? And he goes, I've taken too long with this agency. They're not responding and I gotta get this done fast. I gotta order them to do it fast. I said, You don't have to do that at all. What housing agency, what other housing agency does a great job with their department? He said, Well, the one right next to them, the big agency. I go, You make that agency contract with the other agency, they'll take a percentage of the fees, but give them a limited time, like a year or two and let them mentor the other agency. Run the department, mentor the other agency. And that's what they did. Yeah, it worked, it worked fabulous. Didn't take as long as they thought it would, got everybody straightened up. That did not have to be bid. You know why? It's another government agency and the cost compared very well with, if we had gone out to private industry. Though, I will tell you something. I don't think we'd had gotten any proposals because this section eight department. You know, there's companies, Quadel, Nan McKay, CVR, there's others who will manage section eight functions, housing choice voucher functions for a department.

But if the place is too small, like this one was, they won't even respond. It's not enough money for them to invest everything they have to do to do it. So you can do contracts with other government agencies without competitive bids. Anytime we do anything with anybody else, we have a contract, And here's why, your contract with a government agency, another agency, will be very different from one. And HUD says this in the handbook, will be very different from contracts with private firms because government agencies have the same issues you do. Let me give you an example. When we do a contract with another, with a private firm, we will make that firm saved indemnify and hold us harmless. And we will make that firm give us an insurance policy, naming us as an additional insured, right? We know that. When you do it with a government agency, you don't, because they have the same issue as us. So we will do a shared indemnification where we will save indemnify and, hold each other harmless, right? And if we require them to give us an insurance certificate, we're going to have to give them one. So my advice is, don't get with an insurance certificate at all from any government agency. Your assumption is they have insurance coverage. They will not name you as an additional insured, there's two thoughts, the contract will be different.

If one housing authority manages another housing authority, yes, you need a contract between those two authorities detailing out which is going to be heavy on specifications meaning, this is what we'll do for you. But those kinds of contracts, you're going to need to say, with a private firm, we will not allow them to terminate the contract. I mean, they can walk off the job and there's nothing I do about it, but I will not give them the right to terminate the contract. When we do it with another government agency, we both have the right to terminate. Usually with a 30 day notice. So there's some, I believe HUD uses the language, There's some latitude in doing contracts with government agencies, okay? That's a management agreement, it's going to be there. Yeah, you're going to have a management agreement, but it's going to be very different. My typical contract form will not work for that Contract directly, joining with another government agency to do a bid. Hey, you know what? If you think it's hard to get information out of your people try to get information out of somebody else's, where the culture is completely different than yours. I've done joint venture bids for people, and one executive director, their people didn't give me information and they told him give him the information or

else. The other director, I talked to him and he said, Well, what do you want me to do? They won't do it. What about a different culture? Yeah. By the way, I never report that back to the other executive director. I just tell him, you talk to the ED, I can't get the information because that's embarrassing. When a director tells me I can't make my people do it, they won't do what I told them to. Wow, okay. Buying off of GSA, IT schedule 70 is allowed per chapter, 14 of the handbook. It is the only federal GSA schedule you can buy off of other than security schedule, 84. All other schedules of federal GSA, not state GSA, federal GSA are ineligible to you.

For instance, maintenance warehouse or whatever that group is called now, has a GSA contract number on their catalogs. And they said, We'll sell to you for that price. Well, that's fine, that's their choice. However, it does not satisfy HUD's exception. HUD says, IT schedule 70 or security schedule 84, and that's it, that's all you can buy off of. You can contract with a firm that has properly competitively solicited a contract with another firm, that is Home Depot. How many buy from Home Depot? HD Supply, Lowe's. Those companies have contracts that have been competed, where they're selling to you on the economies of scale. The one for Home Depot was a \$25 million contract. And you are all getting that pricing, but you have to justify it to the file, which I'm going to show you in a couple of minutes. Requirements. If you are contracting with another government agency, you have to have an agreement between the two of you. The agreement must meet all competitive and noncompetitive requirements. Now, let me explain. If it's noncompetitive, that means it's with another government agency or it's one of the pools that HUD has, the insurance pools, for instance, that HUD has approved as non-competitive. If it was done competitive, the Home Depot contract that Maricopa County did, the bid, must not be in violation of anything in the CFR. For instance, if they said in the bid that you must be a firm based in the state of Arizona, that would throw it out because it would have a geographic restriction that served to restrict competition and you cannot buy from it. Also, it must be competitive. If somebody else does a bid, another government agency does a bid and you want to piggyback on it, join on it, write a joinder, and they only get one bid, it is not appropriate because it is non-competitive, okay? It is the result of a receipt of one bid is noncompetitive therefore it is not appropriate to, good on. So it must not be in violation of CFR.

You've got to make sure that buying off of these other contracts provides for efficiency and cost savings. Well, certainly, if you don't have to do a bid it's efficient, right? - [Student] Yes - [Instructor] And it saves you money because you get economies of scale. It must be for common supplies and routine services. Common meaning, it's something they do. You see, I can buy from Home Depot, office supplies, but if somebody at Home Depot says, Look, I'm the local manager here and you need tree trimming services, and we got a guy who works here that does tree trimming. Let's just run it through my books. And it'll still be on the contract, it's not on that contract because the original bid did not include tree trimming services because office Depot does not trim trees. See, it has to be something that they do as a part of their common business practice. Got it? Yeah. Pass throughs are no good. They are not legal. Meaning, passing through dollars to get something done, and I see that all the time. You must contain in your file all the documents pertaining to that other issue. I get a copy of the successful firms submittal, typically. I get a copy of their contract, typically, and then I do my due diligence. And each one of these, there's a tab here, under this form in the book, and each of these items under the tab, we do an ice, we do an analysis, we record our references, We check licensing insurance, LDP, and you see this follows all the same stuff as a bid. Now, remember if you're wondering what some of those look like, then you can just go back to my site and look at these and forget worrying about me. I'm not taking on clients anyway. I'm booked. But this is the form you use and you follow the same format. Are you with me? You PDF those forms. Now, where do you get all those forms? Let's do Home Depot. We have cooperative purchasing. Well, first let me go down here. See we can buy off of state websites,

and I have all the States in the union of U S right here, including Oklahoma. Yep, visit our new website. It's linking. Okay. And here's all the statewide contracts in Oklahoma available to government. Look at this, and it goes on for over 13 pages. Now what these are, Texas has them, Arkansas has them.

Now remember, you in Oklahoma, I advise you to go to your Oklahoma site first. Why? Well, you know, support your local sheriff. Go to Oklahoma first, you're probably going to get help with stuff a little bit better from your local vendors. We're not picking them up because they're local, we're picking them up because they got contracts. But if those don't work or they don't have what you want, you can go to any state you want, and I have all the States there. By the way, you can also go to your city, your County, your school district, they're all eligible. Yeah. Oklahoma by board purchasing cooperative. These are cooperatives where government agencies have done bids. Choice partners, cooperative, office supply contracts, NCPA. You will find a lot of contracts available. And then just to let you know, many of these contracts are also, these areas, are on my website. I've taken quite a few of them, not specific to States. And I put them right up here. And those are by board, KCDA, National Cooperative Purchasing Alliance, National Association of State Purchasing Officials. This is all the state purchasing officials, they've got their own site, where they list all their contracts and the States who did them. OMNIA partners, which is a huge, one source well, and I believe that my OMNIA partners is where. Yes, it is. Local government. They've changed this. View all contracts, Contract documentation, and there's your contracts, there's your RFP, there's all your stuff. You can print that stuff. Now, a lot of it is very long so print it front to back, investigate it, look at it, and when you've got all these dates and everything, put this all in your file and you should be justified. Now, couple of more points.

Why would we do this instead of doing our own bid? If you ever tried to do a bid for the whole Home Depot supply catalog, come on. Yeah. Who else can you get with? You know what government agency looks the most like us? School districts, multiple locations, bathrooms, kitchens, other rooms, landscaping. They look the most like us, but you can buy off of all of those places; Cities, counties. Now, sometimes you look at them, you go, I don't like that price. Then go find a different contract where the price better. It takes you two to four hours to do a piggyback and 24 to 40 hours to do a bid, unless you try to bid the Home Depot catalog and you ain't going to get that bid done. It is not going to get done. It is a massive undertaking, which they have already done for you. You can use my website as a resource, You can use the search engine as a resource, you can go directly to other government agencies. or if a contractor, you find a supplier that you like, you can ask them directly and you can Google their name directly for your area and you will probably find piggybackable bids. Let's keep going on this since nobody's raising their hand. Yeah, the government agencies solicit bids. Now the handbook says that you have to. Says in the first part of this section, that you have to do a contract with Maricopa County to buy off their bids. But then it says, Note however, you have an exception following that where if your state doesn't require, you're not required to do it. And the answer is, you do not have to do a contract 'cause no state requires it. You simply get their documents, use their documents to get this stuff together. Most housing authorities, your guys' size may have five or six of these justifications in the file especially for material, MRO supplies Okay? What is difficult to piggyback on is some services. For instance, if somebody else does a bid for lawn cutting, how can you piggyback on your bid when your sites are different sizes than their sites and their pricing pertain to their sites? I found a housing authority that piggybacked on somebody else's construction contract. And I said, how did you do that? Your scope of work was completely different than theirs. And they said, Oh, we just negotiated the price.

They piggybacked on their qualifications. When you piggyback, you've got to do stuff pursuant to the same terms and conditions as the other bid or RFP, you can't negotiate the price, you can't even change the price. See, I went over to the. I told my Unifirst, I'm not going to do a bid, I'm going to piggyback on your bid with the city. And they say, Oh no, city has got 2000 employees and you've got a hundred under contract. I need another dollar per week per person to do that. I go, I can't do it, but I'll go over to the county's bid. They'll let me piggyback that contractor. They'll let me piggyback. and he goes, hold on a minute, So I'm going to lose you as a customer? I said, absolutely. Both prices are way under what you bid with me last time, so I'm gonna use the piggyback 'cause it's a much better deal. And he decided to give me the city price just to keep me because I'd been a client for many years.

But if they refuse to do it, you can not give them another penny. You must piggyback pursuant to the same pricing that was on that other bid. Are you guys with me on that thought? Please. - [Student] Legal services - [Instructor] Per hour? - [Student] You're providing legal services for one housing. another agency. - [Instructor] Okay. Let me tell you where I have the biggest difficulty in approving awards and that's on other public housing authorities, contracts. Why? Because they did such a bad job with the RFP. However, let's say that you look at the RFP and you know, this is Gifford's, this is his template, it looks great. And let's say that other agency is up the road from you and let's say that that agency has a price with this legal counsel, which you are okay with, and you get all the documentation, the evaluations and everything, and you say, This all looks good. And their price is \$150 an hour and you've been paying \$160. I would say, go for it because everything checks out. But you gotta make sure everything is in line. Everything has to add up. - [Student] Who's held responsible? I guess both agencies, but- - [Instructor] No, not both agencies, you. - [Student] Right, but I guess I'm saying like the other end is going to get hit. - [Instructor] Well, if the other agency gets ahead by HUD, I do a quick RFP because apparently you didn't check that RFP good enough. Here's my thought. But who's held responsible? Well, let's say you do an RFP and another agency piggybacks on it, but they want you to sign the contract, an agreement that says you'll allow them to piggyback. Look at that agreement carefully. I had one out of Mississippi where the director said, Mike, this is a nice guy and I think I'll sign his agreement. I said, Look at that agreement. Bob, wasn't Bob but. And he looked at it and that agreement said,

If I ever get in trouble, piggybacking on your bid, you'll pay for all my legal expenses. (laughs) He goes, I didn't see that. I go, I know you didn't. don't sign nothing. If he wants all the documents, tell him, Give me an FOI request and I'll give them to you at no charge, but I'm not going to agree to indemnify, save and hold you harmless. I'm not going to cover anything. A lot of places will not give you their bids or RFPs because they know they're not compliant. They're not proud of them. So, whatever. It's difficult, particularly difficult, to piggyback on other housing authority stuff. Although I have some clients who, to help everybody, give all their bids and forms and everything away for no charge. Got a great pest control company where they've bid units per size, not just by bedroom, but by square footage sizes. And they're charged, this company is doing pest control at about \$3 per unit as they come in and they got trucks circling the whole Southeast, they got trucks everywhere. And we've had about 10 people piggyback on their bid because I did the bid and it's correct. And this company says, yep, we will do those prices. This was a big agency, they give even the small places, the same price. Why? Because their truck is driving down the road, circling around doing this pest control, and they'll get a schedule in on that housing authority. Yeah. Okay, we've already talked about the inter government agreements and the terms and how those contracts will be a little bit different when you do them with another government agency and all of these things here, all apply.

We've already talked about each one of those. You gotta identify the fees. Now, remember, sometimes the States charge a fee. You just got to make sure that that fee does not take the price beyond what's efficient for you. When I used to buy vehicles, I would buy them off the state of Nevada contract for police vehicles. But I would not buy nor could I buy all the lights and sirens and everything. Why would I buy police vehicles? Because their frames were beefed up. Those vehicles lasted on average, about eight years for me, whereas ones that I bought off the lot average three to four years. So I pay a little bit more, but I have a stronger sedan. Yeah, and trucks. I'd buy my trucks off that place 'cause they had everything beefed up. You've always got to have procedures for results. Okay. When one housing authority does a contract with a contractor, you do not use their housing authority contract, you do your own. You cannot use their contract because the contract is in their name. I have housing authorities say I didn't sign a contract, We just agreed that we would use that contract. No, that's not a contract, that's signed by the other authority. You have to do your own contract if a contract is required. You see with Home Depot, I don't even do a contract, with Home Depot I just issue purchase orders. Joint venture Procurement's, this is not done a lot. Remember, when two or more entities enter into an agreement to conduct a joint solicitation and entered with a single contract, you've got to have an agreement between the two of you. You can, for joint venture partnerships, do a QBS. That means when you're doing things jointly together, you can do a QBS and you can award even using a sole source proposal under certain conditions. The joint venture partnership is not bound by the 2 CFR, 200 for the procurement of supplies and services. Joint venture partnerships are very complex. My advice is to ensure all of this is done correctly, you get a legal counsel to do so.

Consortia. That's when two or more housing authorities go together and combine even funding and program administration into a partnership. I find out that these things aren't done a lot now. What happens is a lot of them, is when in Texas there's a number of housing authorities that are managing other smaller housing authorities and they enter into a partnership with each one. This consortia thing, I think was pushed and tried and I don't think it worked out so well. So I know one housing authority, that's managing eight other housing authorities and about to sign with three more. Their housing authority is couple of hundred units. The rest of them are anywhere from 15 to 20 to 30 units each it's best in my recommendation to just do a contract directly with each other. Meaning they're going to manage you rather than forming a consortia.