

Chapter three.

General requirements Contents. We're gonna talk about procurement planning, individual procurement plans, documentation required, and funding payment and internal controls. Independent cost estimates, an ICE is the PHA's estimate of the costs of goods or services to be acquired under a contract. This independent cost estimate must be in the file. Signed prior to the deadline for receiving proposals. Some people, say is it independent because a third party has to do it. Absolutely not. It's independent because it's independent of the bids received. You utilize this later for your analysis. The punitive action for not having an ICE in the file is seizure of the funds. Let's remember that we have to have an independent cost assessment in the file for every quote, bid or RFP we do or any contract that we sign prior to the award. And for bids it's prior to the receipt of bids. The Contracting Officer as they are responsible for everything else is responsible for developing the ICE. However, that's going to be done with input from staff and sometimes other consultants. How many of you use architects for your capital fund project?

I hope you do cause you need them. The architects can do that ICE for you and only cost you a couple hundred dollars. You take what they give you for that project and list it in the form. And usually capital funds is gonna be one firm fixed fee. Cause it's construction. But it's very appropriate to use the architect to develop that. And it's also very cost effective cause architects have software where they just feed the construction information in and the system which is updated constantly on labor rates, material rates spits out a detailed listing of that information. What if our ICE is too low or too high. That's fine. Estimate, it's not a fact. Therefore, what we do is once we receive the bids and everything and if our ICE was too low or too high, we explain why it was too low or too high. You know, sometimes market conditions even within weeks for construction project really affect the estimation, The ICE must be in prior to the solicitation of offers. By the solicitations, I mean the deadline for submittal. You can't do the ICE all the time before you even issue the bidder the RFP. Even if you do it might change during the process based on questions that are asked. But doing the ICE can help the Contracting Officer to determine the best method let me tell you why.

Where you guys have sent me an email asking questions here's the deal. One of the first thing when they call me and ask something, I'll say what's the value of this issue? Why do I say what is the value because it's gonna be a different answer if it's a million dollars. or if it's a thousand dollars. I get people call me all the time and they go, what's the best method procurement competitive method for me to buy this. How much is it? \$500. I say none. For \$500 don't do a competitive solicitation. You know how much the cost, buy it. It is very small. So I'll ask you the value of that procurement. ICE are not needed for micro purchases under \$10,000 for HUD Above the micro threshold and below the small purchased threshold which is 60, it says minimal documentation. I got to tell you something, I do ICE the same for everything. And then I attach any back up. Above the small purchased threshold absolutely required, above \$60,000 absolutely. Anything above \$3,000 for you in New Mexico is going to be required. ICE can sometime be broken into major categories. The categories of each annual audit year. Yeah, I do that each year.

Why? So they can escalate each year if they wish, they can give me a higher price each year. Work designated customized for PHA such as construction may required a more extensive estimation. It does, in construction we break it down by utilizing a schedule of values. Who recognize that term? Or schedule of amounts When we do construction projects, everything is broken into various elements. To arrive at your independent cost estimate amount, your architect will break it all down into different levels of effort, how much for plumbing, how much

for electrical HVAC and then he will get a total. I take that break down and put it behind the ICE. But on the ICE only list, the firm fixed fee. The estimated firm fixed fee. When you estimate how much something is gonna cost, certainly, that's gonna help you to reserve fund for the procurement. In fact, prior to doing a quote bid in RFP you must ensure that funds are in the budget. You must not go forward with bids without it. I did that one time based on a staff person talking me into it and eventually my authority got a \$5000 fine from HUD, Waste of government resources cause we did an RFP.

But eventually, it was never approved. So all of that money and time I spent on it, the federal government seized back. So this is a individual procurement plan. How did that help us? Well, it's required for all larger and more complex procurement Though I do them for every quote, bid or RFP that I have. I just stay consistent. It gives you establish the deadline that you have to remain aware of, and it helps you determine the scope of the RFP. Individual procurement plans, IPP may contain description that work requirement what are you procuring and for what purpose is it to be used, who is assigned to take care of it. It helps you establish the procurement method. We have to decide are we gonna do a bid or a quote, which is a low cost reward or we can do a RFP which allows us to evaluate and consider factors other than just cost. RFPs are not appropriate for everything. For instance, they are not typically appropriate for construction. It says so in section 7.2.B of the handbook. RFPs are not typically appropriate for construction. We'll go over that in chapter 7. It helps you to define the contract administration process and make sure that you have necessary approval each step of the way.

Everything that you have with a quote, bid or RFP must be in a file labeled with a separate number. Don't fall into this trap. I'm the HUD auditor. Okay I like to see this quote. You say, okay, give me a while, I got to go over here and get stuff, and over here and over here. That doesn't work but people do that all the time. What you need to say is which quote is that good, walk over the file, open it, look at the number and pull it out. Now, sometime I get behind. No matter what I do, I just make sure that I drop that stuff in the file. I've actually gone into the adjudications arbitration or court with post it notes, taped to the piece of paper that was in the file. All in order that those post-it notes information was recorded and the judge accepted them. The other attorney had a fit, the judge goes no. This is all in the same order he said it. Because sometimes I have a hard time focusing, I make notes on post-it notes. Don't throw them away. Put them in a file. They're gold if you ever go to adjudications. You must maintain all records three year after the final payments Purchase order are usually for a shorter period of time.

Typically, purchase order might be for a single purchase, a one off they call it or it could be tied to a contract. If the purchase order is an one off payment, how long did I keep them? Well, I meaning my staff were doing about 10,000 POs a year but it doesn't matter 10000 or 100 POs for smaller agency, the principles are the same. I would keep those POs for that year where the payment was made. Then I would keep it for 3 more years in a file and then every 4th or 5th year, I'd go 4 or 5 years back and start culling the POs and throwing them away. However, bids, I would keep them let's say, what is our maximum contract period for bids and RFPs for awards? 5 is the maximum except for legal which is limited to 3. Might make a note of that. Contract are 5 years maximum, legal is 3. But let say we have a construction project. Now here's my thought. I usually get construction done in the same year so for a construction project including a PO or a contract, I keep it in file for that year then I keep it in the file for 3 years after. Then let me tell you what I do for just construction I either scan them to keep them or I file them away but you never throw construction document away. You know why? Because you never know when the roof going to collapse and you need documentation to protect

yourselves. We one time did a quote to stabilize porch overhangs and later the porch fell and this was 4,5,6 year later and the resident claimed an injury.

Frankly, it was eventually found that they weren't even there but that's another story. However, when we went to arbitration over this issue, I had all the documentation still in the file ready to talk with the court, ready to defend our position. If you throw them away, you don't have that. So never throw away construction documents. Keep them forever. Records must be sufficient to defend the process if a protest is filed and suing me six years later is a protest. Your final solicitation documents, I say it include everything that you had, you generated pertaining to that, even notes. Put the notes in the file because later, somebody may want to say how did you arrive at this decision. And if I have the notes, where I've talked to other people the emails where we spoke that will help to defend myself or even just explain it. Reason as to how you develop the contract, the basis of the contract price we've already talked about. And then any contract administration issues or actions you have. We're gonna talk about that more in chapter 11. Contract administration Funding payment and internal controls, you must ensure work performed is inspected, that you pay invoices promptly, that you have oversight controls procedures on how you oversee the contract, and then you follow these procedures meaning you periodically look at the work, that you only sign for work that was actually completed, and that you document everything to the file.