
CHAPTER 6

Sealed Bids



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Introduction

- Sealed bids are used for purchases above small purchase threshold
- Solicitation process for sealed bids is designed to assist PHAs obtain the best price.
- Authority: 2 CFR §200.320(c)(i)



Invitation for Bids (IFB)

- Solicitations pursuant to IFB contain similar elements and follow a specific process.
- IFB package:
 - Cover page
 - Bid form
 - Specification and statement of work
 - HUD-5369 Instructions to Bidders for Contracts (construction)
 - HUD-5369-B Instruction to Offerors Non-Construction
 - HUD-5369-A Representations, Certifications, and Other Statements of Bidders (construction)
 - HUD-5370 General Conditions of the Contract for Construction or HUD-5370-C General Conditions for Non-Construction Contracts
 - Davis-Bacon HUD wage decisions for construction
 - Maintenance Wage Rate Decision for some (most) maintenance work



Invitation for Bids (IFB), cont.

- Method of Solicitation and Time Period
 - Can be solicited in various ways including:
 - Advertising in newspapers/trade journals
 - Using e-procurement
 - Recommended to be advertised at a minimum once per week for two consecutive weeks
- Bidder Registration
 - Strongly recommended that PHAs develop a registration process to notify potential bidders of potential opportunities to bid



Invitation for Bids (IFB), cont.

- Pre-bid Conferences
 - Not required
 - Can be used to clarify expectations to potential bidders related to solicitation process and goods/services sought
 - All changed information provided by PHA at conference must be delivered after the conference to all potential bidders by addendum
- Amendments to Bid Packets
 - If changes must be made after issuance, publish an addendum containing IFB number, title, IFB issue date, and the new information
 - Amendment must be noted on solicitation log and delivered to each prospective bidder that received an IFB packet
 - Amendment may be posted on PHA's website



Bid Opening

- Date- and time-stamp bids received prior to deadline
 - Late bids should be stamped and set aside unopened
 - These bids can be opened pursuant to HUD-5369, Item 5 or form HUD-5360-B, Item 6
- Bids opened publicly on date and time noted in solicitation
- PHA staff will read bidders' names and prices aloud but will not identify awardee until after bids have been evaluated



Contract Award

- IFBs are evaluated on two primary factors:
 - Responsiveness and Responsibility
 - Price
- Price: Base Bids, Deduct Alternates and Price Evaluation
 - Base bid: Price given by bidder for scope of work delineated in IFB
 - Deduct alternate: Base bid minus certain elements of scope of work deducted to reduce cost



Contract Award, cont.

- Deduct Alternates
 - After bid opening, PHA will (in confidence) evaluate proposed bid amounts and may apply deductive alternates in the order listed until PHA has arrived at an amount within its available funds.

	Bidder A	Bidder B	Bidder C
Base Bid	\$100,000	\$110,000	\$120,000
DA #1	\$10,000	\$15,000	\$20,000
DA #2	\$5,000	\$10,000	\$20,000
DA #3	\$5,000	\$8,000	\$10,000



Contract Award, cont.

- Responsiveness
 - Ensure that bid at least minimally addresses IFB requirements
 - Ensure that bid is for same quantity and quality of materials or services requested in solicitation document



Contract Award, cont.

- Responsibility
 - Bidder must be deemed “responsible”:
 - Adequate financial resources
 - Organizational capacity, accounting, and operational controls and skills
 - Required equipment and facilities or ability to obtain them
 - Ability to comply with timeframe for deliverables
 - Satisfactory performance record
 - Qualified to receive award under HUD, state, local regulations—not debarred or under HUD-imposed LDP or as listed as debarred on the GSA System for Award Management (SAM)



Contract Award, cont.

- How to Determine Responsibility
 - Financial data
 - Determine what other in-progress work bidder has that could affect the delivery schedule
 - References from previous clients
 - Satisfaction with prior work performed
 - Evidence that bidder has or can access required equipment, facilities, skills, etc.
 - Confirm no suspension or debarments



Contract Award—Other Issues

- Equal bid
 - Two bidders propose the same price and are deemed responsive and responsible, then PHA awards by random means of selection
- Minor informalities
 - CO may waive or allow bidders to correct insignificant mistakes
 - Failure to submit a required bond or a complete price is not an informality
- Rejection of bids
 - PHA must clearly document reasons for rejecting a bid and preserve documentation in case there is an appeal
 - CO can reject a bid if the price is unreasonable



Contract Award—Bonds/Guarantees

- Bid Bonds
 - Ensures winning bidder will accept and perform work at cost bid, not withdraw, and execute contract on a timely basis
 - Included in bid package that bidder submits
 - If bidder does not fulfill requirements, bidder loses guarantee and bid will go to next lowest responsible bidder



Contract Award—Bonds/Guarantees, cont.

- Performance Bonds
 - Guarantee that, if contractor is unable to complete work, surety company will pay to have it completed
 - If bidder presents a performance bond by way of letter of credit or funds in escrow, PHA would be able to access those funds to complete the work if contractor fails to perform on contract



Contract Award—Bonds/Guarantees, cont.

- Payment Bonds
 - Ensures contractor will pay employees, subcontractors, and suppliers
 - Unpaid subcontractors and suppliers are entitled to file mechanic's liens on property they have worked on
 - Payment bond prevents mechanic's liens from being filed on PHA-owned property because it ensures that subcontractors and suppliers will be paid
 - Clause 24 of Form HUD-5370 expressly forbids contractors from placing liens on any PHA-owned (Federal) property

