

Proactive Procurement: How to Ask for & Get What You Need

Part 1

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Meet Our Team



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WVU TAB

EPA Region 3 Technical Assistance to
Brownfields (TAB) provider

Resources we offer include **Brownfield
Education**

Including today's webinar led by



CENTER FOR CREATIVE
LAND RECYCLING

RECLAIM. CONNECT. TRANSFORM.



Presenter

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Center for Creative Land Recycling



CENTER FOR CREATIVE
LAND RECYCLING

RECLAIM. CONNECT. TRANSFORM.



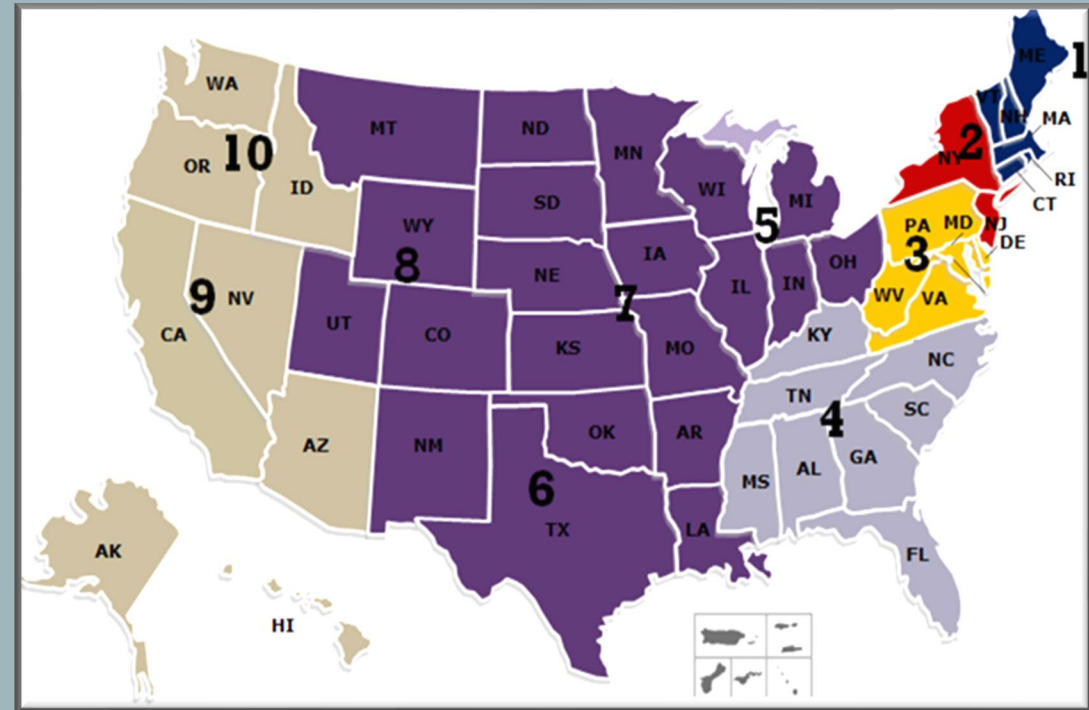
Center for Creative Land Recycling (CCLR) “See Clear”

- National non-profit promoting the sustainable, equitable and responsible reuse of underutilized and environmentally impacted properties.
- Educate, advocate, assist and convene stakeholders to revitalize communities through land recycling.
- Newsletter, blogs ([CCLR.org](https://www.cclr.org))



Technical Assistance to Brownfields Communities (TAB)

- Services are FREE
- Visioning & Planning
- Redevelopment process
- Environmental “Translations”
- Economic Development
- Grant Writing Assistance & Reviews
- Grant Management & Reporting
- Webinars, workshops, trainings, national conferences, online resources



Source: USEPA

AGENDA



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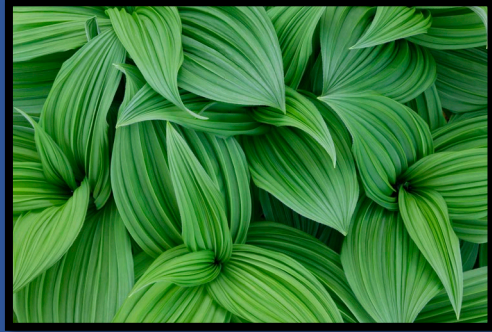
Procurement
What is it & WHY do it?
Guiding Principles & Regulations

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AGENDA



Tenets of Procurement
Procurement "Claw"
IGAs, RFPs, RFQs

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AGENDA



Developing a Scope of Work
Evaluation & Selection
Bid Process

AGENDA

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DAY 1 AGENDA

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Procurement
What is it & WHY do it?
Guiding Principles & Regulations

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What is It?

Process for obtaining products, goods or services – or “procure”

“As a recipient of EPA financial assistance (grants and cooperative agreements) you will most likely need to procure for professional services, supplies or equipment in order to complete the work under the EPA award.”

[EPA’s Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements](#)

[EPA’s Brownfields Grants: Guidance on Competitively Procuring a Contractor](#)



Why Do it?

- To ensure that purchases are made at a reasonable price in a fair and openly competitive way.
- You **MUST** follow the federal requirements contained in the **Procurement Standards of the Uniform Grant Guidance (UGG)** published at **2 CFR Part 200 (aka "Super Circular")** and other rules when awarding and administering EPA funded contracts.
- Cross-cutting federal authority.



Why Do it?

COMPLIANCE



Guiding Principles & Regulations

- Federal Regulations
 - Office of Management and Budget (OMB)
 - Code of Federal Regulations (CFR)
- State, Tribal & Local Laws & Regulations
- Internal Policies & Procedures (P&Ps)





Guiding Principles & Regulations

Office of Management and Budget (OMB)

- Oversees the performance of federal agencies, and administers the federal budget
- Mission is to assist the President in meeting policy, budget, management, and regulatory objectives and to fulfill the agency's statutory responsibilities
- Main Functions:
 1. Budget development & execution
 2. Management, oversight of performance, procurement, financial management and IT
 3. Coordination/review of Federal regulations
 4. Clearance/coordination of legislative materials, communications w/Congress
 5. Clearance of Presidential Executive Orders and memoranda to agency heads



Guiding Principles & Regulations

[Code of Federal Regulations](#)

- Codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government
- 50 Titles (Areas)
 - Chapters (Agency)
 - Subdivided into Parts (Regulatory Areas)





Guiding Principles & Regulations

- For Example: 40 CFR Part 33

▼ Title 40 Protection of Environment	Part / Section
▼ Chapter I Environmental Protection Agency	1 – 1099
▼ Subchapter B Grants and Other Federal Assistance	33 – 49
▼ Part 33 Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs	33.101 – 33.503
▼ Subpart A General Provisions	33.101 – 33.107



Guiding Principles & Regulations

- Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities guidance, commonly known as:
[Uniform Grant Guidance \(UGG\) 2 CFR Part 200](#)
- 2 CFR Part 200.317 – 200.327 (UGG Procurement Standards)
- 2 CFR Part 1500 (Full and Open Competitive Requirements)



Guiding Principles & Regulations

- [40 CFR Part 33](#) (EPA Regs; Disadvantaged Business Enterprises (DBE))
 - Must make good faith efforts to contract with DBE's whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement
 - DBEs have the opportunity to compete for procurement
 - Documentation of methods used in records
 - Appendix A to 40 CFR 33 – requires procurement contracts to include the following:

“The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.”



Guiding Principles & Regulations

- Read Cooperative Agreement & [Terms and Conditions](#)
- Know the Rules
- Consult with EPA/Governing Body/Legal Advisors
- Seek Mentors
- Obtain Examples
- Don't Rush or Wing It
- When in Doubt – **ASK!**
- **TAB Providers Can Assist**





Tenets of Procurement Procurement "Claw" IGAs, RFPs, RFQs

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Tenets of Procurement

- Clear understanding of what you need and want
- Know the rules & regulations
- Understand timeline and process
- Gather procurement team – reviewers, evaluators, facilitator
 - Unbiased and knowledgeable
- Document, Document, Document
- You must conduct your procurement in accordance with the minimum UGG requirements even if your own procurement system has less stringent standards



Tenets of Procurement - UGG Standards

1. Must maintain written Procurement P&Ps covering the methods available under the regulations
2. Costs must be reasonable and necessary
3. Must provide for full and open competition
4. Must maintain written standards of conduct for internal and external conflicts of interest
5. Must maintain documentation addressing cost and price analysis and vendor selections where applicable based on the method of procurement

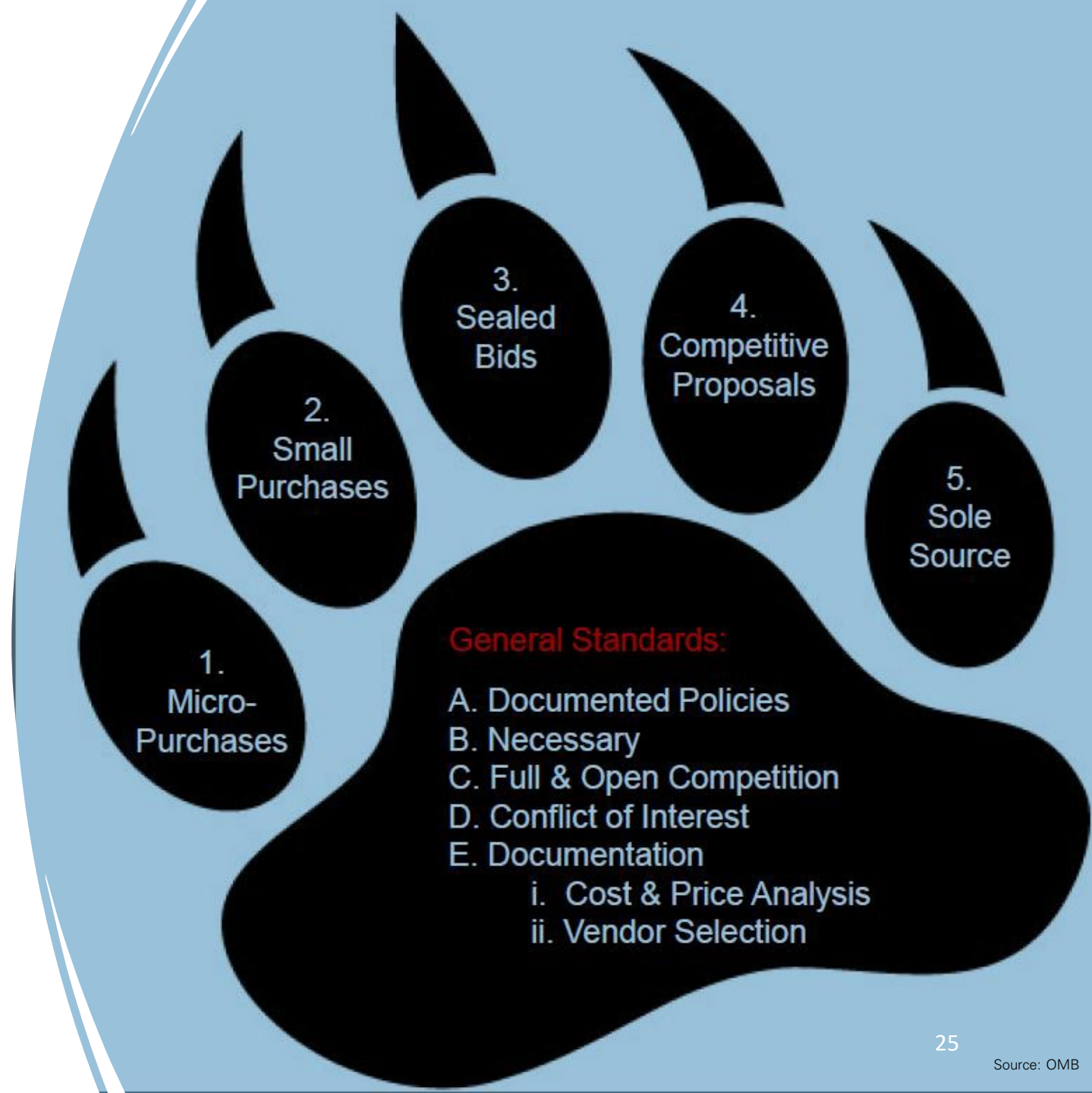


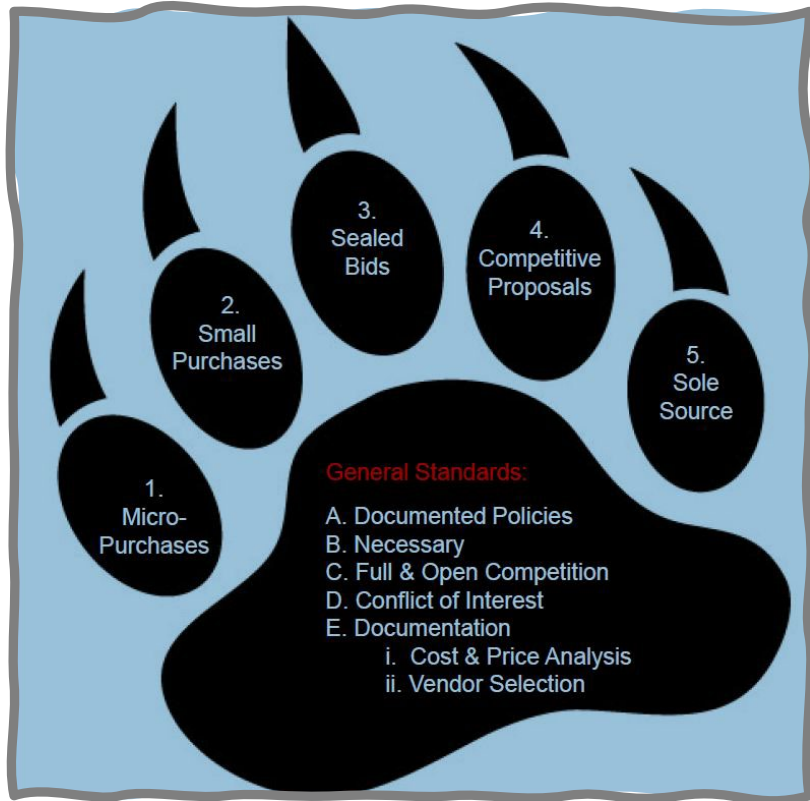
Procurement “Claw”

5 Methods under 2 CFR 200

[EPA’s Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements](#)

[EPA’s Brownfields Grants: Guidance on Competitively Procuring a Contractor](#)





1. **Micro-Purchases, Under \$10,000** – without competition, but need to be equitably distributed among suppliers (DBE considerations) and price is reasonable

2. **Under \$250,000 – Simplified Acquisition Threshold;** small purchase procedures, solicit offers from adequate number of sources (DBE considerations), w/o formally advertising

3. **>\$250,000 (Sealed)** – Precise specifications, firm fixed-price contract awarded principally on price; typically for construction projects, purchases of equipment in commercial marketplace and supplies in bulk. Tribal/local gov't's must publicly advertise opportunity.

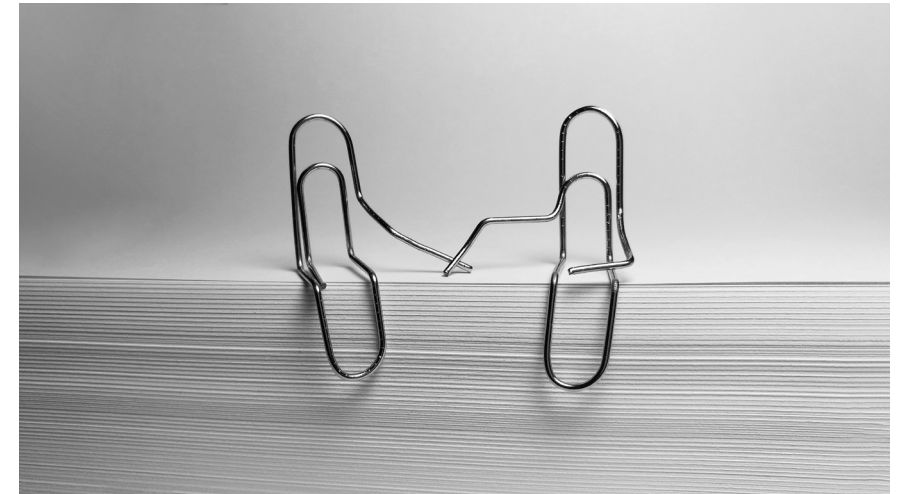
4. **>\$250,000** – Fixed price or cost reimbursement; typically for acquisition of services where qualifications and technical approaches may be more important than price considerations; must be publicized and open for at least 30 days and identify evaluation factors; written method for conducting technical evaluations and requirements for recipient selection

5. **Sole Source - RARE**. Potential justifications (200.320(c)); only one source has goods or is able to perform the service; an emergency, EPA approval, or after soliciting a number of sources it was deemed competition was inadequate.



Intergovernmental Agreements (IGAs)

- EPA encourages recipients to enter into IGAs to procure for common goods & services (2 CFR 200.318(e))
- **Example.** Your state already did a competitive procurement process and has contracts with environmental consultants; you can “piggy-back” off that with an IGA and acquire consulting services without further competition.





RFPs & RFQs

Request for Proposals

- Process used to select one firm to conduct professional services as outlined in the Scope of Work (SOW)
- Proposals

Request for Qualifications

- Process used to select a stable of qualified consultants to choose from for various work order tasks when needed
- Statement of Qualifications (SOQs)

Both MUST account for reasonableness of costs/price

- [See Appendix A \(Conducting a Price and or Cost Analysis\) of EPA Best Practice Guide for Procuring Services . . .](#)
- [Analysis of Brownfields Costs \(ABC\) Tool](#) - Lattice Community



RFPs & RFQs

Do Not Seek or Accept	ANY assistance/guidance from a contractor in preparing an RFP/RFQ if the same contractor plans to bid on the RFP/RFQ
Do Not Use	Sample language or templates from contractors planning to bid on the RFP/RFQ
Do Not Include	Language that restricts/limits competition or gives a particular contractor an advantage
Do Not Include	A copy of work plan in RFP/RFQ if you received assistance from a contractor in developing it and they plan to bid on the RFP/RFQ



The Big Ask... Can you do an RFP for Writing a Grant AND Implementation Services?

- YES...However
- Cost/price reasonableness must be a factor on EVERYTHING being solicited
- Free and Open Competition
- RFP CANNOT be written by, taken from, given by, etc. a consultant who may be bidding
- Evaluation must have a cost criteria
- It must adhere to ALL of the procurement guidelines & regulations

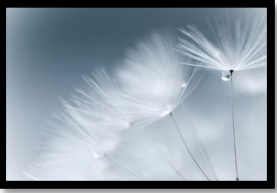


Developing a Scope of Work (SOW)
Evaluation & Selection
Bid Process

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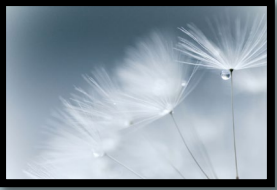
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Developing a SOW

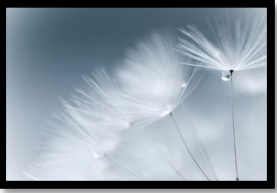
- What Is It?
- Components
 - Project Goals
 - Timeline
 - Expected Results
 - Deliverables
 - Conditions
 - Management
- Why It's Important





Developing a SOW...and beyond

- Scope Boundaries – what is in and what is not
- Tasks and Responsibilities – both for client and services
- Clear Expectations
- Communication Plan – channels, frequency, key contacts
- Quality Assurance – standards of deliverables
- Legal & Compliance
- Appendices



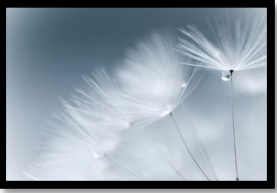
Developing a SOW...and Beyond

- Does SOW align with overall goals?
- Does SOW align with Work Plan?
- Do tasks and resulting outcomes meet your needs?
- Reusing a SOW?

Ex.: RFP to understand extent of contamination not just confirming findings of Phase I (RECs)

i.e. placement of monitoring wells to determine direction of groundwater flow, off-site contamination; delineation of contaminants and estimate of cleanup costs; enough to evaluate remediation options

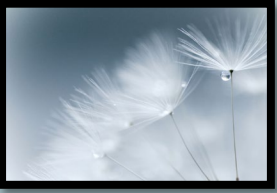




Building a Solicitation

- Introduction/Background
- SOW
- Terms, Conditions, Expectations
- Budget
- Experience/Qualifications
- Submission Requirements
- Evaluation Criteria/Process
- Project Timetable
- Attachments

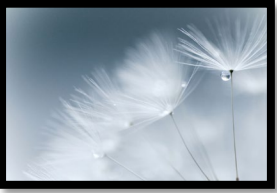




Evaluation & Selection

- Evaluation Criteria must be in solicitation
- Weighted
- Possible Categories
 - Experience & Capacity of Team
 - Experience w/Community Engagement
 - Reasonableness of Cost/Price Proposal
 - References
 - Experience in Successfully Completing tasks/projects
 - Experience in Addressing Contaminated Properties

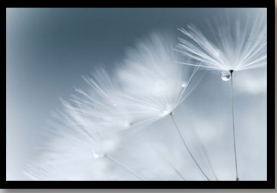




Evaluation & Selection

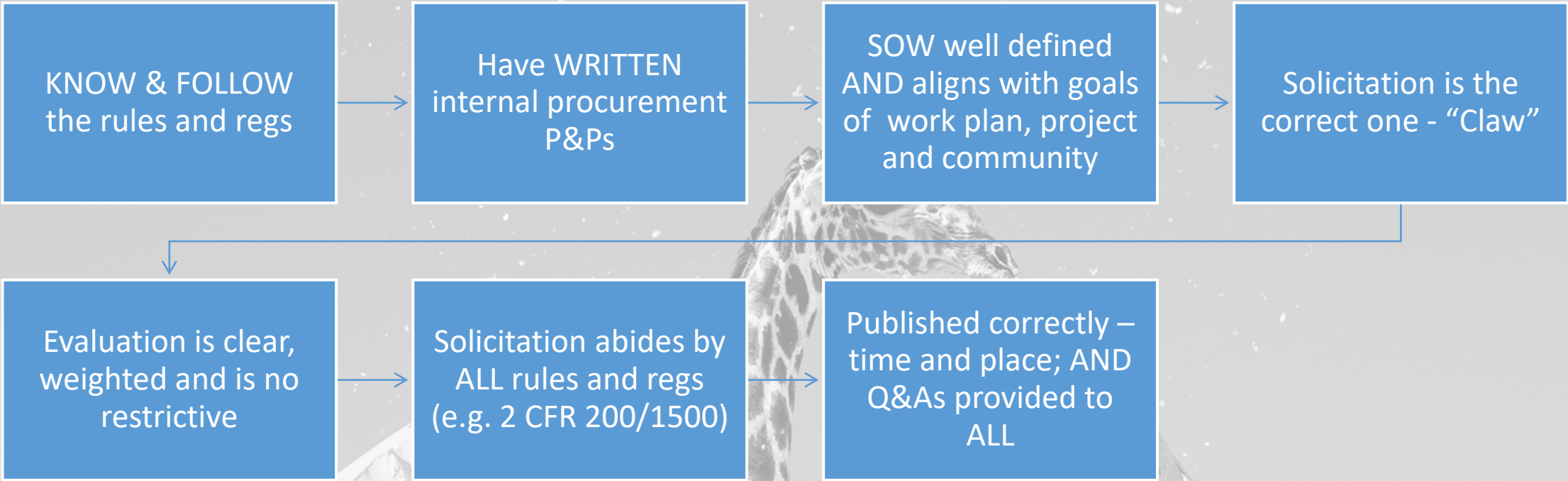
Any improper procurement practices?

Category	Maximum %
Project Lead/Team Experience	15
Technical Expertise	20
Experience w/EPA Brownfields Grants	25
Public Outreach Efforts	10
Quality of Proposal	5
Price Reasonableness	15
Interview	10



Bid Process

- Open and free competition
- Publish according to procurement guidelines
- Minimum of **thirty (30)** days
- Point of Contact
- Instructions & Questions (**Must Share Q&A's!!**)
- Timeframe & Deadlines
- Interviews (If necessary)



Questions





WVU TAB Can Help!

WVU TAB

Technical Assistance to Brownfields (TAB)

All WVU TAB services are **FREE** for the Mid-Atlantic Region

Key resources include:

- **Brownfield Education**
 - Trainings, webinars, events
- **Resource Identification**
 - Grant writing assistance, grant review, resource road maps
- **Local Brownfield Program Support**
 - Brownfield inventory development, questions on sites, technical support
- **Project Development & Design Assistance**
 - Site-specific assistance, design support from WVU Davis College



Upcoming Events

State Conference

WV Brownfields Conference

- Wheeling, WV
- September 12-14, 2023
- Register [here](#)

TAB Webinars

Procurement Process & Advice – Part 2

- August 31
- 11:00 – 12:30 pm (ET)
- No need to sign up for Part 2 if already registered for Part 1

Other

State-Specific EPA FY 24 Grant Webinars

- October, 2023
- Registration coming [soon](#)



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[Schedule a one-on-one consultation](#)