

## **Competitive Procurement of Services that are not Expected to Exceed \$50,000 in Price**

### **Overview**

Under the State's procurement regulations procurements which do not exceed \$50,000 in price are termed "Small Procurements." All State agencies have delegated authority from DGS Office of State Procurement (OSP) to make awards of services procurement contracts which do not exceed \$50,000, regardless of the method of source selection, e.g., competitive, sole source, or emergency procedures. The only limitation to this authority is that agencies may not artificially divide a single procurement requirement into a number of small procurements in order to avail themselves of this award authority.

### **Component Thresholds**

While \$50,000 is the maximum dollar value for a small procurement, there are two lower dollar thresholds that are significant: \$5,000 and \$15,000. At these threshold levels different considerations come into play, as follows:

#### **\$5,000 Threshold Level (\$1 to \$5,000.00 contract range)**

A procurement in this price range can be awarded based upon the decision of the procurement officer. While some attempt at competition is preferred, this dollar level is considered so minimal that the educated decision of the procurement officer is sufficient to make an award. This is true even if no competition was sought, or a vendor other than the lowest priced bidder/offeror is preferred.

#### **\$15,000 Threshold (\$5,000.01 to \$15,000.00 contract range)**

For contracts that are expected to be more than \$5,000, but not more than \$15,000, the concepts of prospective vendor notification and award determination come into play.

#### **Goal for Number of Responses**

At this level, the goal is to receive two (2) valid responses (bids or proposals). This means that some type of prospective vendor notification must be employed to solicit responses. This notification can be in person, or by phone, fax, mail, Bid Board notice, electronic (email/Web Site) notice, advertising in a publication such as a newspaper or trade journal, etc.

In providing such notification, the procurement opportunity should be consistently described to all prospective offerors; i.e., the same information should be provided. The easiest way to do this is to provide a written description of what is needed. Nevertheless, such a written description is not required and obviously would not apply in cases of in-person or telephone notification. (Although a written description could be read in cases of telephone notification.)

### **Time Frame for Responses**

There is no minimum time frame which must expire before an award can be made in this price range. The prospective vendors can be contacted and asked for an immediate response. As soon as at least two valid bid/offers are received, the solicitation process can stop and an award be made. The most typical example of this process would be to call several prospective vendors, uniformly describe what is needed, and either ask for an immediate bid price or a declination to bid, or allow only a very short time frame for them to call back with a bid, such as within 2 hours, before the end of the day, etc. For instance, if two (2) vendors are called in succession and each promptly gives a valid bid, the competitive process can be over in the space of 10-15 minutes.

### **MBE Participation and Other Factors**

Alternatively, if a serious effort is being made to obtain either the lowest feasible bid or the best possible vendor, many more than two prospective bidders/offerors can be contacted. Moreover, Certified Minority Business Enterprises (MBEs) should always be contacted in addition to any other prospective vendors. While not typical, it is also possible to establish an MBE sub-contracting goal for a small procurement. An MBE goal might be warranted for a small procurement activity that is easily segmentable into activities that are known to be performed by certified MBEs

If bidders/offerors can not reasonably be expected to provide an immediate response, i.e., they have to calculate prices, determine availability of products or personnel, or provide resumes, references, proposals, etc., as much time can be allowed for a response as deemed prudent. This can be days or even weeks.

### **Receipt of Single Bid/Offer**

Whereas the goal for an award, as previously stated, is two valid bids/offers, an award can be made if only one bid/offer is received and the procurement officer determines:

1. That an appropriate number of other prospective bidders/offerors were afforded a reasonable opportunity to submit a response.
2. That the quoted price and other aspects of the single response are reasonable.

### **Determination of Award**

An award can be made on the basis of either the Lowest Bid Price or the Most Advantageous Offer. A most advantageous offer award always includes an offeror's price, as well as vital non-price aspects. The procuring unit must determine in advance which of these two methods it will employ in making the award and must tell this to prospective vendors as part of the notification process.

If the award is to be made to the most advantageous offeror, prospective offerors must be told at the time of notification what factors (criteria) besides price will be used to make this most advantageous determination.

**\$50,000 Threshold (\$15,000.01 to \$50,000 contract range)**

Virtually all requirements described under the \$15,000 threshold (\$5,000 - \$15,000 range) apply to this range as well.

The only additional requirements are:

1. There must be a notice of the procurement opportunity in eMaryland Marketplace Advantage. There can also be other means of published notice of the solicitation.
2. There must be a written solicitation (brief but succinct)
3. At least three (3) working days must elapse between the date of the published notice and the date when an award can be made.
4. A copy of the notice and the written solicitation must be provided to the Governor's Office of Small, Minority and Women Business Affairs (typically by email) no later than the date of notice in eMaryland Marketplace Advantage.

Published Notice means either a notice (generally 1-4 pages in length) which is posted on the Bid Board, or a notice which is published in a newspaper or via electronic media which is generally available to the business community. This published notice is in addition to any other notification method, i.e., bid solicitation can still be made by phone, fax, etc., besides using the published notice.

## SUMMARY

### **\$1 - \$5,000 Range**

Try to obtain two (2) bids/offers but an award can be made at any time to whichever vendor the procurement officer believes is appropriate considering all pertinent circumstances.

### **\$5,001 - \$15,000 Range**

- Make serious efforts to get two (2) or more bids/offers.
- Any notification method can be used; including oral by telephone, by fax, email, etc.
- MBEs should be solicited for response.
- No minimum time frame has to expire before an award can be made.
- An award can be made if only one (1) bid/offer is received.
- Award is made by lowest bid price or most advantageous offer.
- Prospective bidders are notified of how the award is to be made and the criteria that will be used if the most advantageous offer method is used.

### **\$15,001 - \$50,000 Range**

All elements of the \$5,001- \$15,000 range apply, **EXCEPT:**

- In addition to any other notification method, notice of the availability of the solicitation must be posted on eMaryland Marketplace Advantage. Written notice may also be posted on an agency bid board, notification can be made via electronic media generally available to the business community, including the agency's web site, or an ad may be placed in a newspaper or other appropriate periodical.
- At least three working days must expire from the date of the eMaryland Marketplace Advantage notice before an award can be made.
- A copy of the solicitation and notice must be sent to the Governor's Office of Small, Minority and Women Business Affairs, at or before the time of the eMaryland Marketplace Advantage notice.