

Cooperative Purchasing Concepts (and Project-based Procurement)

2008 NAHRO Annual Conference & Exhibition
San Antonio, TX
Tuesday, October 28, 2008, 1:30pm-3:00pm

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Cooperative Purchasing Concepts (and Project-based Procurement)

Our Objectives

- Understanding the regulatory requirements (including specific references within 24 CFR 85.36, *Procurement*, and HUD Procurement Handbook 7460.8 REV 2
- Justification for potential uses of Cooperative Purchasing
- Appropriate, compliant and effective Cooperative Purchasing techniques
- The relationship and use of Cooperative Purchasing as it applies to Project-based Procurement

Cooperative Purchasing Concepts (and Project-based Procurement)

The Basic Guidelines – Documents That Govern PHA Procurement/Contracting

- 24 CFR 85.36: issued by Congress)
- HUD Procurement Handbook 7460.8 REV 2: issued by HUD to further explain the CFR's (NOTE: certain Handbook sections referenced herein within each "[]")
- Applicable State Statutes: issued by State Legislatures
Which combined result in the . . .
- Public Housing Agency (PHA) Procurement Policy: formulated by the Agency
 - ◆ A PHA will follow the stricter of the State Statutes and Federal Regulations [Section 1.5]

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24 CFR 85.36 (b)5, Procurement standards

“To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.”

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Why Use Cooperative Purchasing (Benefits):
[Section 14.1]

- Less Time and Effort: “Simplify and expedite the procurement process” (no solicitation to issue)
- Lower Costs: “Can offer substantial discounts” (efficiency of quantity)

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Required Efforts: [Section 14.2]

The PHA must ensure/justify:

- Greater “economy and efficiency and results in costs savings to the PHA” [Section 14.2.A.1] by doing an Independent Cost Estimate (ICE) [Section 3.2] and conducting a Price Analysis [Section 10.8].
- Procure only “common supplies and services.” [Section 14.2.A.2]
- Purchased pursuant to 24 CFR 85.36 (i.e. not in violation of 24 CFR 85.36). [Section 14.2.A.3]
- Cost . . . was evaluated as a part of the original solicitation. PHA must repeat the evaluation at least annually.

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Chapter 14. Cooperative Business Relationships

Four Defined Methods:

- (1) Contracting directly with the governmental agency (including buying surplus) [Section 14.2.B]
- (2) Joining with another local governmental agency to issue/award a competitive solicitation (aka "Consortium Buying") [Section 14.7]
- (3) Buying from GSA IT Schedule 70 (PLEASE NOTE: A HA is NOT eligible to buy from ANY other GSA contracts!) [Section 14.2.F]
- (4) Contracting directly with a firm that has a competitively-solicited contract with a local governmental agency (aka "Joinder" or "Piggy-back") [Section 14.2.B.5]

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(1) Contract directly with the governmental agency (including buying surplus)
[Section 14.2.B.1-4, 6-7]

Required Steps:

- ❖ Formulate Independent Cost Estimate (ICE) [Section 3.2]
- ❖ Conduct Cost Analysis [Section 10.3; Appendix 12]
- ❖ Ensure/Justify "Economy and Efficiency" [Section 14.2E]
- ❖ Formulate/Negotiate/Execute Contract [Section 14.2.D]

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(2) Joining with another local governmental agency to issue/award a competitive solicitation (aka "Consortium Buying") [Section 14.7]

Required Steps:

- ❖ Jointly Formulate Solicitation Documents [Chapters 5-7]
- ❖ Formulate Independent Cost Estimate (ICE) [Section 3.2]
- ❖ Conduct Solicitation [Chapters 5-7]
- ❖ Conduct Cost Analysis [Section 10.3; Appendix 12]
- ❖ Contract Award [Section 10.1; 10.2; 24CFR85.36(i)]

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(3) Buying from GSA IT Schedule 70 (PLEASE NOTE: A HA is NOT eligible to buy from ANY other GSA contracts!) [Section 14.2.F]

Required Steps:

- ❖ Formulate Independent Cost Estimate (ICE) [Section 3.2]
- ❖ Receive Proposal from chosen vendor
- ❖ Conduct Cost Analysis [Section 10.3; Appendix 12]
- ❖ Ensure/Justify "Economy and Efficiency" [Section 14.2E]
- ❖ Formulate/Negotiate/Execute Contract [Section 10.1; 10.2; 24CFR85.36(i)]

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(4) Contracting directly with a firm that has a competitively-solicited contract with a local governmental agency (aka "Joinder" or "Piggy-back") [Section 14.2.B.5]

- ❖ What "governmental agencies" are appropriate? The language in the CFR and in the Handbook are not restrictive to the State that a PHA is based—it simply states: "State and local"

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(4) "Joinder" or "Piggy-back" (con'd) [Section 14.2.B.5]

- ❖ What "governmental agencies" are appropriate?
 - ✓ State
 - ✓ City
 - ✓ County
 - ✓ School District
 - ✓ Public University
 - ✓ Community College
 - ✓ Water District

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(4) “Joinder” or “Piggy-back” (con’d) [Section 14.2.B.5]

- ❖ What “governmental agencies” are appropriate?
 - ✓ Health District
 - ✓ Department of Transportation
 - ✓ Airport
 - ✓ Housing Agency
 - ✓ State Prison
 - ✓ Etc. (ANY State or local governmental agency)
 - ✓ Federal Contracts? NO, not eligible—“State or Local” Only!!!

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(4) “Joinder” or “Piggy-back” (con’d) [Section 14.2.B.5]

Required Steps:

- ❖ Formulate Independent Cost Estimate (ICE)
[Section 3.2]

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(4) “Joinder” or “Piggy-back” (con’d) [Section 14.2.B.5]

Required Steps:

- ❖ Obtain copies of the following documents pertaining to the original contract [Section 14.2]:
 - ✓ Solicitation documents originally issued, including addendums (Verify Appropriate Specifications)
 - ✓ Tabulation (Validate Competition)
 - ✓ Ensuing Contract (Ensure Terms & Conditions)
- ❖ Please see the Sample Form: “Joinder” or “Piggy-back” Contract Justification



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(4) “Joinder” or “Piggy-back” con’d [Section 14.2.B.5]

Required Steps:

- ❖ Conduct Cost Analysis [Section 10.3; Appendix 12]
- ❖ Ensure/Justify “Economy and Efficiency” [Section 14.2E]
- ❖ Formulate/Negotiate/Execute Contract [Section 10.1; 10.2; 24CFR85.36(i)]
- ❖ A PHA MUST ensure that it executes the contract in conformance with and pursuant to the Terms and Conditions of the original solicitation documents and contract (including cost—the PHA MAY NOT negotiate ANY increase in unit costs)!



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Chapter 14. Cooperative Business Relationships

- “Underlying contract(s) must have been procured in accordance with 24 CFR 85.36” [Section 14.1]

This does not mean that all of the required HUD forms must have been originally used (such will NEVER happen with a contract issued by another governmental agency)—therefore, you must attach the forms identified in the Handbook to your ensuing contract with the supplier/contractor (please see following frames 19-22).



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➤ **HUD-required forms**

- ✓ **Quotations for Small Purchases (QSP): \$2,000-\$100,000**
[Section 5.10]

Construction:

- ❖ form HUD-5370-EZ

Non-construction:

- ❖ Table 5.1

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➤ **HUD-required forms**

- ✓ **Seal Bids – Invitation for Bids (IFB):** >\$100,000, though could be less [Section 6.5.A.4-6]

Construction:

- ❖ form HUD-5369 (10/2002)
- ❖ form HUD-5369-A (11/92)
- ❖ form HUD-5370 (11/2006)

Non-construction, with Maintenance Work:

- ❖ form HUD-5369-B (8/93)
- ❖ form HUD-5369-C (8/93)
- ❖ form HUD-5370-C-I (10/2006)
- ❖ form HUD-5370-C-II (10/2006)

Non-construction, without Maintenance Work:

- ❖ form HUD-5369-B (8/93)
- ❖ form HUD-5369-C (8/93)
- ❖ form HUD-5370-C-I (10/2006)

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➤ **HUD-required forms**

- ✓ **Competitive Proposals – Request for Proposals (RFP):** >\$100,000, though could be less [Section 7.2.B.1-3]

Construction (RFP to be used "only under limited circumstances"):

- ❖ form HUD-5369 (10/2002)
- ❖ form HUD-5369-A (11/92)
- ❖ form HUD-5370 (11/2006)

Non-construction, with Maintenance Work:

- ❖ form HUD-5369-B (8/93)
- ❖ form HUD-5369-C (8/93)
- ❖ form HUD-5370-C-I (10/2006)
- ❖ form HUD-5370-C-II (10/2006)

Non-construction, without Maintenance Work:

- ❖ form HUD-5369-B (8/93)
- ❖ form HUD-5369-C (8/93)
- ❖ form HUD-5370-C-I (10/2006)

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➤ **HUD-required forms**

- ✓ **Competitive Proposals – Request for Qualifications (RFQ):** >\$100,000, though could be less [Section 7.2.B.1-3 & 7.3.F; aka Qualifications-based Selection (QBS)]

- ❖ form HUD-5369-B (8/93)
- ❖ form HUD-5369-C (8/93)
- ❖ form HUD-5370-C-I (10/2006)
- ❖ form HUD-51915 (9/98)

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Relationship to Project-based Procurement (PBP)

- Many PHAs are under that impression that, under PBP, HUD requires PHA's to conduct separate competitive solicitations for each AMP.
 - ❖ Not true! PHA's are still free to conduct centralized contracting activities, though HUD has decreased some funding.

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Relationship to Project-based Procurement (PBP)

- Many PHAs are under that impression that, under PBP, HUD has given PHA's relief from Section 5.3.C, *Prohibition Against Bid Splitting*, of Procurement Handbook 7460.8 REV 2, thereby allowing a \$2,000 Micro Purchasing limit for each AMP, rather than Agency-wide.
 - ❖ Not true! Though I understand that it has been "talked about," HUD has not issued any PIH Notice giving relief to or revising the requirements of Section 5.3.C.

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Relationship to Project-based Procurement (PBP)

- So, how will Cooperative Purchasing help an Agency to accomplish PBP? First, an Agency needs to understand the difference between:
 - ✓ Contracting
 - ✓ Purchasing

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Relationship to Project-based Procurement (PBP)

For the purposes of this discussion:

- Contracting: Formulating and executing a Contract with a firm(s) to supply the PHA with an on-going need for “supplies and services” at a set unit cost.
[Handbook pages 1-6]
- Purchasing: Placing on-going orders, on an as-needed basis, against a Contract described above.

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Relationship to Project-based Procurement (PBP)

Mike Gifford’s Opinion:

“As such is not their ‘core’ competency, it is not reasonable to expect that Housing Managers, Maintenance and other staff will be able to successfully and compliantly conduct contracting and procurement activities, especially competitive solicitations (Quotes; Bids; RFP’s) in accordance with the applicable CFR’s and the Procurement Handbook.”

So, what is a solution?!

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Relationship to Project-based Procurement (PBP)

Comparison of Level of Effort

- **New Competitive Solicitation (IFB; RFP; RFQ):**
20-40 total hours
- **Joinder Contract: 2-4 total hours**

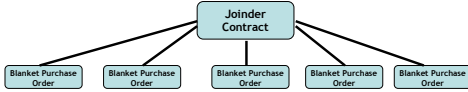
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Relationship to Project-based Procurement (PBP)

Potential Solution

- (Contracting) As allowed/encouraged by Cooperative Purchasing regulations, execute a centralized contract for an on-going need of supplies or services. Then . . .
- (Purchasing) Issue Blanket Purchase Orders (BPO's) against the contract, perhaps one BPO for each Agency office or AMP.



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Relationship to Project-based Procurement (PBP)

- **Blanket Purchase Order (BPO):** Info already entered
 - ✓ BPO number (080067)
 - ✓ Applicable Dates (1/1/08-12/31/09)
 - ✓ Who can Buy? (John Smith, Mary Jones)
 - ✓ Applicable Contract ("Pursuant to Contract #C08006)
 - ✓ AMP Codes (217-140904-00000-234-017)

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Relationship to Project-based Procurement (PBP)

- **Blanket Purchase Order (BPO):**
 - ✓ Deliver BPO copy to the Vendor and the User (AMP staff); each confirm receipt in writing.
 - ✓ No need to issue additional PO's during applicable dates; staff ensures that signature and the BPO number is listed on each invoice when delivered to A/P.
 - ✓ A/P pays invoices based on staff's signature.

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Relationship to Project-based Procurement (PBP)

Conclusion

- **Contracting (IFB; RFP; RFQ; Joinder Contract):**
Conducted by trained and skilled in such “arts.”
- **Purchasing (buying stuff pursuant to BPO’s):**
Conducted by front line—housing; maintenance;
office—staff whose “core” competency is skills
other than Contracting.

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I hope this information is of a help!

Thank you!
