



Purchasing with Public Funds

Keith Watts
Purchasing Manager
City of Meridian



Purchasing Law Changes – SB 1074aa

- **Changes made in the wake of interim committee regarding state purchasing**
- **Doesn't change the processes in any major way**
- **Does establish the RFP process for procurement of personal property**
- **Revises threshold limits for various procedures**



Purchasing Law Changes – SB 1074aa

- **New threshold for need to use public works contractor – creates new payment considerations**
- **Eliminates the “no interested public works contractor” exception – because limits are raised**
- **Several specific exclusions added**
- **Delegation authorized for counties**



Under \$50K – Value Driven

- **Not guided solely by lowest price**
- **Budget compliance – appropriated?**
- **Approval to spend?**
- **Future obligations? Multi-year obligations**
- **Key principle – seek the best value – Assume you will have to explain your rationale in public**



Basic Rule – Over \$50K – Price Prevails

- **Competitive Bidding – to determine price**
- **Exceptions – quality or value over price**
- **Public works construction – special procedures and requirements**
- **Personal property – procedural thresholds differ from public works**
- **New RFP process for personal property**
- **Services – some unique exceptions**



\$50K and Over – It's About Money

- **General rule – must buy at lowest price – not max value**
- **Procedures to determine price**
- **Defense to lowest price – specifications**
- **Greatest risk – procedural inconsistency**
- **If not taking lowest bid, or if taking lowest bid and waiving nonconformity – CYA (consult your attorney)**



Exceptions to Price-Driven Purchases

- Piggybacking – more later
- Professional services
- Purchase under \$50K – don't split purchase to avoid bidding
- Interest in real property
- Personal services – individual skills
- Procurement of insurance
- Participation in joint powers agreement



More Exceptions (added by SB 1074)

- **Goods bought for resale**
- **Travel and training expenses**
- **Purchases from Idaho Correctional Industries**
- **Heavy equipment repair**
- **Software systems**
- **Public utilities**
- **Jail food**
- **Auction purchases may be authorized by governing board.**





Public Works Construction

What is Public Works Construction?

- Building something: building, pipeline, roadway, park, canal, etc.
- Public agency owner



Using Licensed Public Works Contractors

Must use licensed public works contractor and subcontractors if complete job is over \$50,000 – big consequences

Why does it matter?

- Law requires
- No lien authority
- Requires payment and performance bond (alternative to lien)

Bidding on public work without license or contracting with unlicensed contractor is a crime



Public Works Construction – Small Projects

- **Costs between \$50K to \$200K**
- **Abbreviated process – minimum of 3 days or more**
- **Describe work in narrative – don't need detailed plans**
- **Agency may choose the three (3) licensed contractors to submit bids**
- **Must be in writing – can use email, fax, sealed bid – must keep for 6 months**
- **Must take lowest price if it complies with request**



Public Works Construction — Large Projects

- Over \$200K
- Full competitive bidding
- Publish notice in official newspaper
- Can use pre-qualification process
- Plans and specifications needed
- Sealed bids – open in public at noticed time
- Award to lowest qualified bidder
- Provide notice and opportunity for hearing if not to low bidder





Purchasing Equipment & Services



Buying Personal Property/Services

- Same procedures as public works bidding
- Different threshold for semi-formal bids - \$50K - \$100K
- Specifications are critical
- Often raises questions of multi-year contracts
- Be wary of “or equal”- only allow for all bidders with change before opening bids



Newly Authorized RFP Process

New **§67-2806A** will allow use of RFP process to procure **goods and services (not public works)**

Allows purchaser to engage in problem solving

Permits use of criteria **other than price** for selection

Minimum request process includes:

- Instructions
- Scope of work
- General contract terms
- Scoring methodology

Scoring of proposals is a public record



Piggy-Backing Purchase of Goods/Services

- Rely on competitive bidding by other qualified agency – vendor must have been low bidder
- State of Idaho, Idaho local governments, GSA and other Federal competitive procurement – not local government in another state.
- Avoids need to develop specifications and costs of bidding process
- Best source is salesman
- Should have prior governing board approval



Preparing Proper Specifications

- **Should describe what you need**
 - **Protect against what you don't want**
 - **Don't allow vendor to draft specs – seek materials from vendors**
- How restrictive can you be?**
- **No definitive legal standard**
 - **Often are public policy issues**
 - **Avoid past problems**



Miscellaneous Matters

- **Can use joint purchasing programs that would be OK in Idaho – look behind curtain at offered programs – assure compliance**
- **Emergency purchasing can be less formal – involve governing board**
- **Sole source procedures if only one supplier – example of manufacturer who has only one authorized dealer in territory**
- **May want to spread the word about purchases to facilitate piggy-backing**





Thank You!

