Grant Procurement Options: The Path To Success

With your hosts:
The OSC Bureau of Contracts Grants Team
Introduction

Overview

This presentation will provide State agency staff with an overview of the options available when tasked with the distribution of grant funds.
Introduction

Agenda

Grant Procurement Options to be Reviewed Include:

- Competitive Procurement
- Non-Competitive Procurement
- Contract Reporter Exemption Request (CRER)
- Legislative Line Item
OSC Bureau of Contracts

Mission

We provide an independent review of contracts to achieve open and fair procurements that produce contracts in the best interest of New York State.
Grants Team

Mission

The Grants Team is generally responsible for the audit of grant contracts for human services awarded to primarily not-for-profit organizations and municipalities, and contracts funded with specific line items identified in the State budget.
OSC Bureau of Contracts

Statutory Authority and Guiding Principles

State Finance Law Section 112(2)(a)

• The Bureau of Contracts is charged with the responsibility to review and approve contracts and purchase orders in excess of $50,000 for State agencies, and contracts and purchase orders that exceed $85,000 for OGS and the Business Services Center
OSC Bureau of Contracts

Statutory Authority and Guiding Principles

• Article 11-B of the State Finance Law on Prompt Contracting and Interest Payments for not-for-profit organizations

• Grant contracts with not-for-profit entities must be approved or non-approved by OSC within 15 calendar days
NYS Procurement

Purpose & Process

• The purpose of State procurement is to facilitate each State agency’s mission while protecting the interests of the State and its taxpayers and promoting fairness in contracting

• Through a variety of procurement procedures, a State agency and grantee negotiate, develop and sign a contract

• State agency submits contract to the Attorney General and Comptroller for approval
Agency staff should submit a complete Procurement Record at least thirty days prior to the contract(s) start date to ensure sufficient time for approval and the timely execution of contracts - Guide to Financial Operations (GFO) XI.4.A
NYS Grants

Unique Nature of a Grant Procurement

- Grant contracts are referred to as “program” contracts as they are usually associated with services that support the mission of an agency by ensuring that critical services are met.
- Grant programs usually have multiple contracts associated with them.
- “Grants” are not specifically defined in NYS law.
NYS Grants

Grant vs. Service Contract

Public Benefit or State Operations?

• Are services to be provided for the benefit of the public at large or for operations of the State agency?
• “Public at large” funds are generally Aid to Localities appropriations in the State budget
• “Operations of the State” are generally State Operations appropriations in the State budget
## Grant or Service Procurement?

<table>
<thead>
<tr>
<th>Component</th>
<th>Service Contract</th>
<th>Grant Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose of Funds</td>
<td>Services are being provided to support the operations of the agency.</td>
<td>Services are being provided to the public at large for a specific purpose which aligns with the State agency’s mission.</td>
</tr>
<tr>
<td>Matching Requirements by Contractor</td>
<td>Does not contain matching requirements.</td>
<td>Frequently contains a matching requirement.</td>
</tr>
<tr>
<td>Evaluation of Cost</td>
<td>Typically, best value.</td>
<td>Based on reasonableness of individual proposal and responsiveness to documented cost criteria.</td>
</tr>
<tr>
<td>Payment</td>
<td>Payment is made upon receipt of invoice for completed services. No advances are typically allowed.</td>
<td>Advances to non-profits are generally allowed up to 25%. Payments should be on a pre-defined schedule.</td>
</tr>
<tr>
<td>Additional Statutory Requirements</td>
<td>Consultant Disclosure and the Procurement Lobby Law.</td>
<td>Subject to Prompt Contracting Law.</td>
</tr>
</tbody>
</table>
NYS Procurement

Determining Type of Grant Procurement

Based on the criteria and the funding guidelines, four methodologies are available for procuring grants:

• Competitive Procurement
• Non-Competitive Procurement
• Contract Reporter Exemption Request (CRER)
• Specific line item identified in the State budget
Competitive Procurement

Characteristics

Guiding principles

• All applicants should know the rules and start on an equal playing field
• The procurement process should ensure that the best applications/proposals are fairly and objectively selected
• Applicants should be treated equally throughout the process
• All eligible applicants must be notified of funding opportunities
• Outreach should not be limited to the Contract Reporter
• Each application is evaluated and scored
Competitive Procurement

Process

• State agencies review all the details involved in the competitive procurement and create a Request For Proposal (RFP)/Request For Application (RFA) for community distribution

• Elements of a Competitive Procurement
  • Planning
  • Development
  • Award Methodology
  • Evaluation Process
Competitive Procurement

Sample Timeline

- Business Need
- Program Requirement Development
- Draft RFP / RFA
- Release RFP / RFA
- Bidder Conference *
- Develop Evaluation Guide/Instrument
- Respond to Questions *
- Issue RFP / RFA Amendment, if necessary *
- Proposals Due
- Evaluation Begins
- Coordinate w/ Evaluators
- Identify Evaluators
- Development
- Coordinate w/ Evaluators
- Internal Approvals
- Evaluation Complete
- Interviews *
- Contract Implementation
- Other approvals as required: AG, OSC
- Monitor/Manage Contract
- *Optional

NYS COMPTROLLER
THOMAS P. DiNAPOLI
Competitive Procurement

OSC Guidance

Competitive Grants Procurement Checklist

• Available in OSC’s GFO XI.15.A
• Agencies are strongly encouraged to submit a completed copy of the checklist with the procurement record
• Guides agencies in providing the required documentation and assists OSC in performing a timely review of the information submitted
Competitive Procurement

Review Criteria

Documents/information to be sent as part of submission of the procurement record

• Legislative program authorization (enacting or enabling legislation)
• Budget appropriation (current fiscal year)
• RFP/RFA and blank application
• Certified Award Methodology and Evaluation Tool
• Award list in award rank order with requested and allocated funds (including those not funded)
• Award/Non-Award notification/debriefing/protest status
• Boilerplate contract including agency guidelines (payment advances, if applicable)
• Proof of advertising in the New York State Contract Reporter
Competitive Procurement

Review Criteria

Documents/information to be sent as part of submission of the procurement record

- Agency Contact Person, Phone & Email
- Business Unit/Department ID/Agency Name
- Grant Program Title
- Eligible Applicants
- Contract Term
- Earliest Contract Start Date
- Latest Contract End Date
- Number of Contract Awards
Competitive Procurement

Evaluation Process Highlights

• Develop evaluation process and tool prior to the receipt of proposals
• The methodology for evaluating proposals should reflect what was provided in the RFP/RFA
• Establish written guidelines and instructions for evaluators
Competitive Procurement

Evaluation Process Highlights

• Identify mandatory requirements and review criteria
• Describe review of reasonableness of cost
• Ensure that at least 20% of the score addresses proposal cost per OSC best practice
• Scoring rubric should be clear and consistent with the evaluation tool
Competitive Procurement

Award Methodology

• What criteria will be taken into consideration when making the awards?
• How will criteria be scored or incorporated for awards?
• How will awards be made?
  • Highest score
  • Regionally
  • Based on other documented need
Competitive Procurement

Award Methodology

• How will tied applicant scores be addressed?
  • Agencies should have multiple tie-breaking procedures in place

• What is the plan to address debriefings and protests?
  • Internal protest review
  • Protests to OSC
Competitive Procurement

Normalizing Scoring Variances

• There should be at least three evaluators
• Risk is that review criteria can be subjective
• Same evaluators should evaluate all applications, if possible
• Training for evaluators should be consistent
• As a best practice, agencies should have a plan to normalize score variances
Competitive Procurement Amendment

Criteria

• Additional funding was received, and all awards are increasing proportionately
• An awardee has declined their award and the procurement allows for funding of the next highest scoring applicant
• There was a substantive error with the initial submission
Non-Competitive Procurement

Characteristics

- Finite pool of eligible participants
- All eligible applicants are awarded
- Funding by formula
- Multiple awardees - if only one or two awardees, a CRER would be used
- Procurements are either formula driven or legislatively directed
Non-Competitive Procurement

Required Documentation

- Enacting Legislation
- Appropriation
- Applicant/Award List
- Boilerplate Contract

Required Narrative

- Program Outline
- Eligible Audience Outline
- Funding Methodology Description
NYS Economic Development Law §144 provides for exemptions to required procurement advertising: “The comptroller shall be responsible for granting or denying an exemption for each individual procurement contract...”

- A contract reporter exemption request (CRER) must be approved by OSC prior to entering into a single source contract.
Contract Reporter Exemption Request (CRER)/Single Source

Characteristics

A CRER is requested by a State agency when it wants to enter into a contract with a particular vendor without advertising the opportunity or conducting a competitive bid.

Examples:

- To extend an existing contract when competitive procurement is not timely.
- To add money or change the scope of an existing contract (when not part of an amended procurement record).
- To assign a contract which is not a result of a merger.
Contract Reporter Exemption Request (CRER)/Single Source

Additional CRER Examples

- Some, but not all contracts, under a procurement are being modified
- Additional funding is granted in a manner different from that of the original procurement
- Agency received only one response to a Solicitation of Interest (SOI)
Contract Reporter Exemption Request (CRER)/Single Source

CRER Applications

- Limited pool of authorized providers of services
- Interruption of provision of essential services would be detrimental to the community

**Longevity of services from a particular vendor cannot be the only justification for selection**
Contract Reporter Exemption Request (CRER)/Single Source Process

Mandatory components

• Description of the program, activity or services being procured
• Document the circumstances and the material and substantial reason why a formal competitive process is not feasible
• Justification of selection
• Why the period of time requested is the minimum necessary to ameliorate the circumstances which created the material and substantial reasons for this request
• If a future competitive process is anticipated, provide key dates such as: publication of notice in the Contract Reporter, bid due date, bid opening date, evaluation and notice of award dates
• Provide price justification for the request
Contract Reporter Exemption Request (CRER)/Single Source

Process

Justification of Selection

• Clear explanation of circumstances leading to single source request, the selection of the vendor, including possible alternatives considered, and the unique nature of this specific vendor

Reasonableness of Cost

• Clear and substantiated documentation that shows how the determination was made that the contract amount is a reasonable expense for the State

• Comparisons to similar regions, comparisons to other relevant providers, comparisons to prior year’s costs
Legislative Line Item

Description/Characteristics

The Legislature may include specific items of appropriation in the enacted budget and assign the administrative responsibility for these items to State departments, agencies, or public authorities.
Legislative Line Item

Direct Budget Line Item

• Agency is responsible for demonstrating that the contract is consistent with the purpose noted in the appropriation

• Direct line items without a named entity or clear distribution intent require a Legislative Initiative form or Legislative Letter of Intent
Legislative Line Item

Member Item

- Legislative initiatives that are from the Community Projects Fund – 007 allocation in the approved budget will have an “M” prefix for the contract number.
- All legislative initiatives contracts over $50,000 must begin with the characters M00.
- All legislative initiatives contracts $50,000 and less must begin with the characters TM00.
Legislative Line Item

Legislative Line Item Allocation

• When a contract is supported with a line item allocation in the budget, that is not 007 funds, the contract will be a “C” prefix

• Example:

```
OFFICE FOR THE AGING

AID TO LOCALITIES  2020-21

needs and preferences of all their resi-dents (10866) ........................ 122,500
For services and expenses of the New York state adult day services association, inc.
related to providing training and techni-cal assistance to social adult day services programs in New York state
regarding the quality of services (10867) .... 122,500
```
Legislative Line Item

Legislative Line Item Allocation

• This procurement method is not optional for State agencies
• Once included in an approved budget appropriation bill, the law dictates the vendor and the award amount so the only viable procurement tool is the Legislative line item
<table>
<thead>
<tr>
<th>Line Item</th>
<th>Description</th>
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<tbody>
<tr>
<td>44</td>
<td>For services and expenses related to the provision of Public Health Programs</td>
</tr>
<tr>
<td>45</td>
<td>including but not limited to Sickle Cell, Alzheimer's Disease, Lupus, Parkinson's, ALS, and other community health providers.</td>
</tr>
<tr>
<td></td>
<td>1,000,000</td>
</tr>
</tbody>
</table>
Legislative Line Item

Legislative Initiative Form

Legally Incorporated Name of Organization:
Federal Employer Identification Number (EIN):
New York State Charities Registration Number:
Location of Project:
County/Counties Served
Description of Project

Funding Level:
Requested State Agency to Administer Program:
Program Contact Information
Name:
Title:
Address:

City: State: Zip:
Phone: Ext:
Fax:
Email:
Senator's Name:
Grant Procurement Options
Summary of the four ways to procure

- Competitive Procurement
- Non-Competitive Procurement
- Contract Reporter Exemption Request (CRER)
- Legislative Line Item/Legislative Designation
OSC Website Resources

• Office of the State Comptroller Procurement and Contracting in New York
  https://www.osc.state.ny.us/state-agencies/contracts

• Office of the State Comptroller Training Resources
  https://www.osc.state.ny.us/state-agencies/training

• Office of the State Comptroller Procurement Stewardship Act Report
  https://www.osc.state.ny.us/state-agencies/contracts#PSA

• Office of the State Comptroller Prompt Contracting Report

• Office of the State Comptroller State Contracts by the Numbers

• Office of the State Comptroller Forms for State Agencies and Employees
  https://www.osc.state.ny.us/state-agencies/forms
State Resources

• NYS Guide to Financial Operations
  https://www.osc.state.ny.us/agencies/guide/MyWebHelp
• Grants Reform
  https://grantsmanagement.ny.gov
• NYS Division of the Budget
  https://www.budget.ny.gov
• NYS Office of General Services Procurement Services
  http://ogs.ny.gov/procurement
• NYS Contract Reporter
  https://www.nyscr.ny.gov
• Office of the State Comptroller Grants Team Email Box
  BOCGrantsTeam@osc.ny.gov
## OSC Bureau of Contracts
### Grants Team Staff

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<thead>
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Grant Procurement Options

Questions and Answers
Thank You!