

Office of Operations Fall Conference 2022

Grant Procurement Options



NYS COMPTROLLER

THOMAS P. DiNAPOLI

Welcome

Grant Procurement Options: The Path To Success

With your hosts:

The OSC Bureau of Contracts Grants Team



NYS COMPTROLLER
THOMAS P. DiNAPOLI

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



NYS Procurement

Procurement Process

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?

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



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



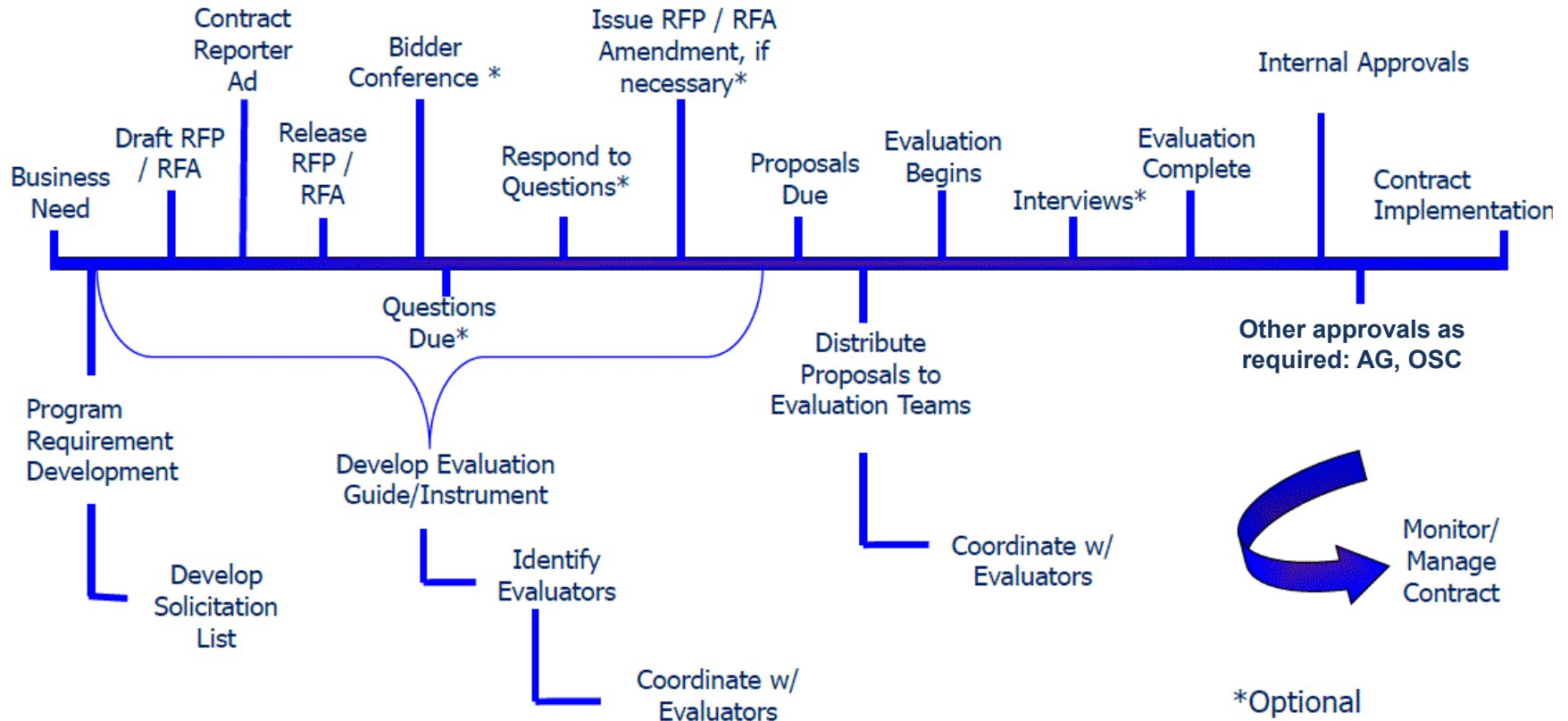
Competitive Procurement Process

- 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



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



Contract Reporter Exemption Request (CRER)/Single Source

Authority, Definition & Characteristics

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 residents (10866)	122,500
For services and expenses of the New York state adult day services association, inc. related to providing training and technical 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



Legislative Line Item

Legislative Line Item Allocation

1

12553-10-9

DEPARTMENT OF HEALTH

AID TO LOCALITIES 2019-20

44 For services and expenses related to the
45 provision of Public Health Programs
46 including but not limited to Sickle Cell,
47 Alzheimer's Disease, Lupus, Parkinson's,
48 ALS, and other community health providers.

1,000,000



Legislative Line Item

Legislative Initiative Form

Chapter 53 of 2019

Page No. _____ Line No. _____

SFY 2019-20

NEW YORK STATE SENATE

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:



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THOMAS P. DiNAPOLI

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
<https://www.osc.state.ny.us/files/state-agencies/contracts/2021/pdf/prompt-contracting-report-2021.pdf>
- Office of the State Comptroller State Contracts by the Numbers
<https://www.osc.state.ny.us/files/state-agencies/contracts/2020/pdf/state-contracts-by-numbers-2020.pdf>
- 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

Krista Clark	Section Head	kxclark@osc.ny.gov	838-910-4100
Paul Bachman	Team Leader	pabachman@osc.ny.gov	838-910-4117
Mia Graham	Team Leader	mgraham@osc.ny.gov	838-910-4110
Kenji Cline	Supervisor	kcline@osc.ny.gov	838-910-4098
Jennifer Lauer	Supervisor	jlauer@osc.ny.gov	838-910-4092
Chris Richards	Supervisor	crichards@osc.ny.gov	838-910-4077
Amy Wines	Supervisor	awines@osc.ny.gov	838-910-4065
Catherine Bruns	Primary Auditor	cbruns@osc.ny.gov	838-910-4073
Laura Coyle	Primary Auditor	lcoyle@osc.ny.gov	838-910-4102
Carol Hayes	Primary Auditor	chayes@osc.ny.gov	838-910-4072
Jamie Hockey-Barrett	Primary Auditor	jhockeybarrett@osc.ny.gov	838-910-4090
Sandra Nolan	Primary Auditor	snolan@osc.ny.gov	838-910-4128
Regina Richardson	Primary Auditor	rrichardson@osc.ny.gov	838-910-4124
Amber Risch	Primary Auditor	arisch@osc.ny.gov	838-910-4064





Grant Procurement Options

Questions and Answers



Thank You!



NYS COMPTROLLER
THOMAS P. DiNAPOLI