



Using Formal Procurement

Improving Response Rates

April 14, 2026

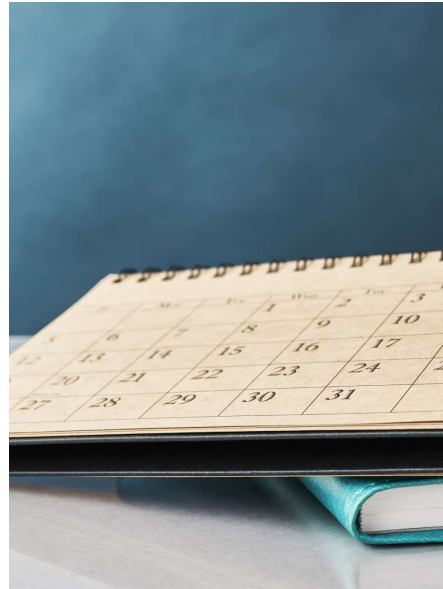


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Agenda

- Procurement Environment
- Formal Procurement
- Procurement Planning
- Solicitation Process
- Sealed Bidding
- Request for Proposals
- Request for Qualifications
- The Contract



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Course Objectives:

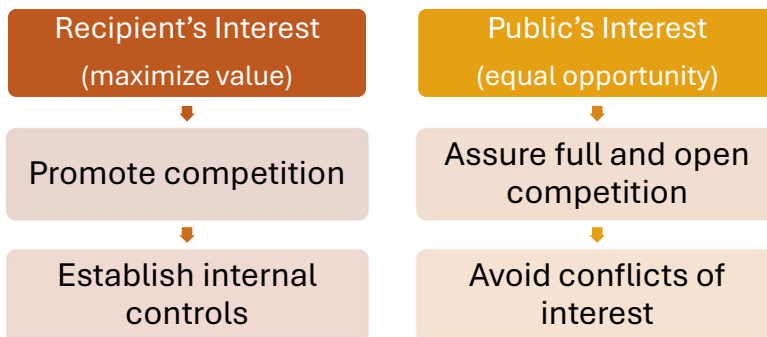
Understand the basics of using formal procurement with the use of IHBG funds, and how, in turn, response rates can be improved to expand competition leading to lower costs and better quality.



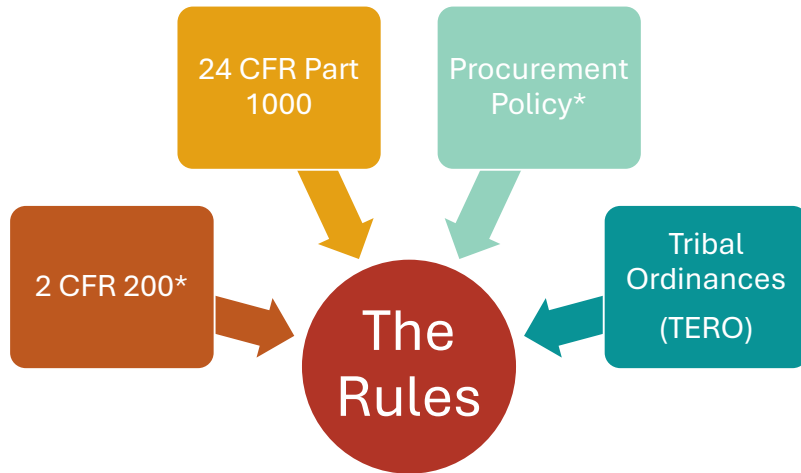
Procurement Environment

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Foundation of Procurement



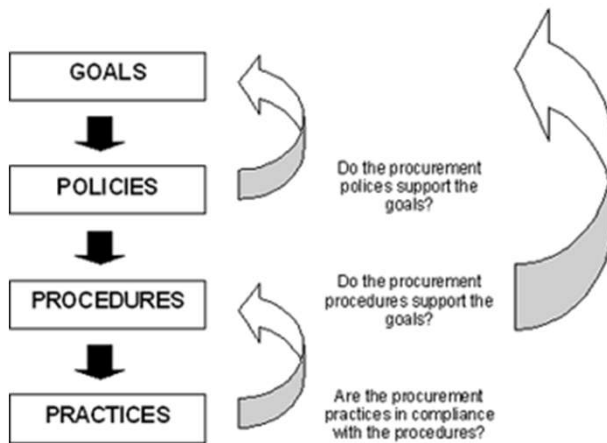
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*Per 2 CFR 200.317, Tribes must follow same the same policies and procedures used for procurements with non-Federal funds. If these don't exist, must follow 2 CFR 200.318 through 200.327. In addition to policies/procedures, must also always follow 2 CFR 200.321, 200.322, 200.323, and 200.327.

Procurement Policy

2 CFR 200.318: The recipient or subrecipient must maintain and use documented procedures for procurement transactions under a Federal award.



Tribal Requirements

Tribal law

Federally directed
Native preference

Tribal licensing

Tribal
Employment
Rights
Organization

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Domestic Preferences for Procurements Related to “Infrastructure” Projects

References: [2 CFR 200.322](#), [2 CFR Part 184, M-22-11](#), [PIH 2024-35 \(Revised\)](#) and [PIH 2025-06](#)

- Tribes and TDHEs should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). **The requirements of this section must be included in all subawards, contracts, and purchase orders under Federal awards.**
 - “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 - “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
 - Waived – projects =< \$350,000 (current Simplified Acquisition Threshold)
 - There may also be other waivers – see PIH 2025-06 and PIH 2024-34 Revised

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Build America, Buy America (BABA)

References: [2 CFR 200.322](#), [2 CFR Part 184](#), [M-22-11](#), [PIH 2024-35 \(Revised\)](#) and [PIH 2025-06](#)

- Prior to starting the project, the Tribe/TDHE should determine if the project will be considered Public Infrastructure and subject to BABA
- If the project involves construction, maintenance, alteration, and repair of 1-4 dwelling units, the project is not subject to Buy America Preference (BAP)
- Construction, maintenance, alteration, and repair of 5 or more dwelling units will be considered Public Infrastructure and subject to BAP

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Build America, Buy America (BABA)

References: [2 CFR 200.322](#), [2 CFR Part 184](#), [M-22-11](#), [PIH 2024-35 \(Revised\)](#) and [PIH 2025-06](#)

- Awards and subawards at or below \$2,500,000 are exempt from BABA if
 - The total award is less than \$2,500,000 AND
 - The award does not exceed \$2,500,000 for the life of the project
- Tribal recipients may purchase non-compliant manufactured products when expending HUD Federal Financial Awards that were obligated on or before September 30, 2026.
- PIH 2024-35 (Revised) Appendix C includes a checklist the Tribe/TDHE can use to determine whether BAP applies

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Build America, Buy America (BABA)

References: [2 CFR 200.322](#), [2 CFR Part 184](#), M-22-11, PIH 2024-35 (Revised) and [PIH 2025-06](#)

- Tribal Recipients are responsible for assessing each project funded with Federal funds subject to BABA to determine if the BAP applies and documenting compliance.
- BAP requirements apply to the procurement of Covered Materials used in infrastructure projects.
 - Iron and Steel
 - Manufactured Products AND
 - Construction Materials
- Covered Materials must be sourced from producers and workers in the United States

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Incorporating BABA in Overall Project Management

If applicable, check for and document BABA compliance at each stage of an Infrastructure Project.

Ensure that BABA requirements are considered during and incorporated into the design phase for any project. If a contractor will be overseeing the design and construction contracts, the TDHE should ensure that the contractor takes these actions.

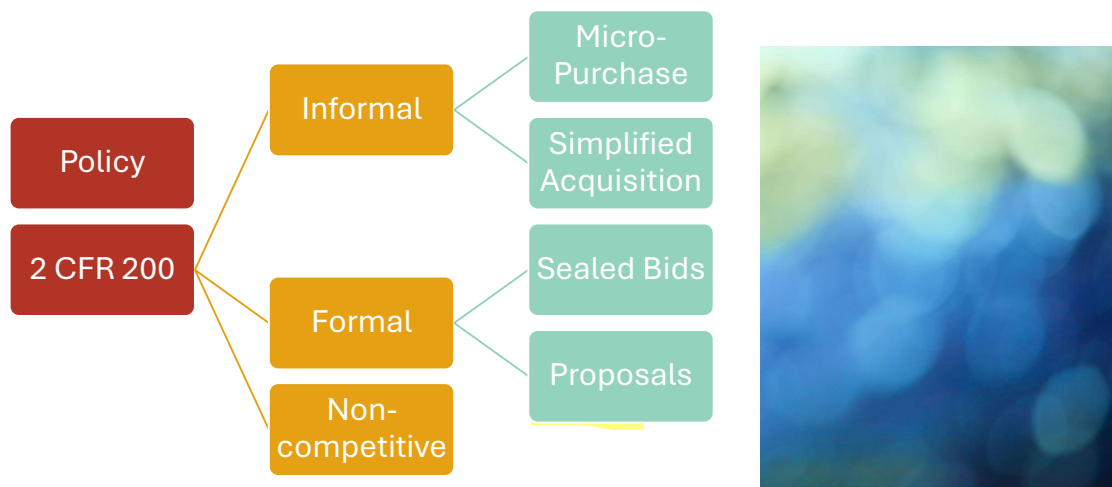
Monitor each stage of the Infrastructure Project, from the planning and design phase through the completion, to ensure that the Infrastructure Project complies with BABA.

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Formal Procurement

What is it?

Procurement Methods



Simplified Acquisition Threshold

- The Simplified Acquisition Threshold is a dollar amount that determines the rules and procedures for a procurement using Federal funds.
- For procurements equal to or exceeding the Simplified Acquisition Threshold (currently \$350,000), or any locally adopted threshold, whichever is less, formal procurement procedures must be used.
- For procurements less than the threshold, informal procurement procedures may be used.

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Two Types of Formal Procurement

- Sealed Bids
 - Also referred to as “invitation for bids” or “IFB.”
 - Contract award is based on lowest bid.
 - Must be compliant with 2 CFR [§200.320\(b\)\(1\)](#).
- Proposals
 - Also referred to as “request for proposals” or “RFP.”
 - Contract award is based on highest scoring proposal with cost being one of the weighted criteria.
 - Must be compliant with 2 CFR [§200.320\(b\)\(2\)](#).

Sealed Bidding or Request for Proposals?

Sealed Bidding

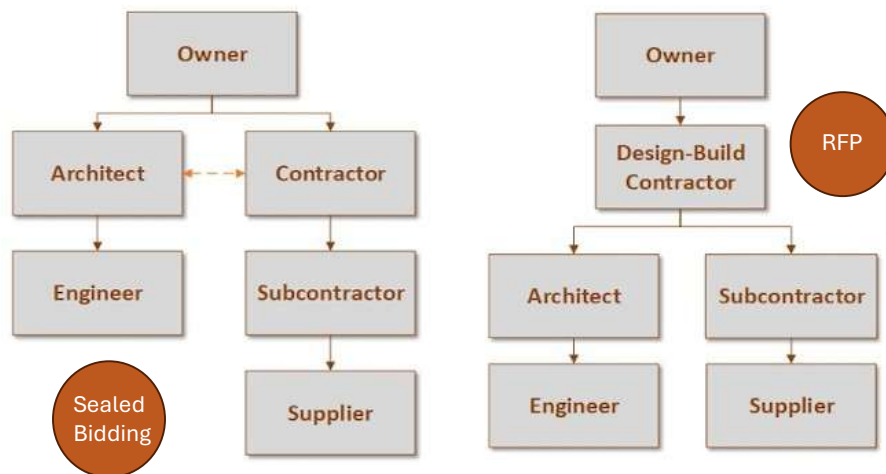
- Primary Purpose: traditional construction projects
- Clear specifications
- Goal: lowest prices

Request for Proposals

- Primary Purpose – services and Design-Build construction projects
- Broad specifications
- Goal: best alternative

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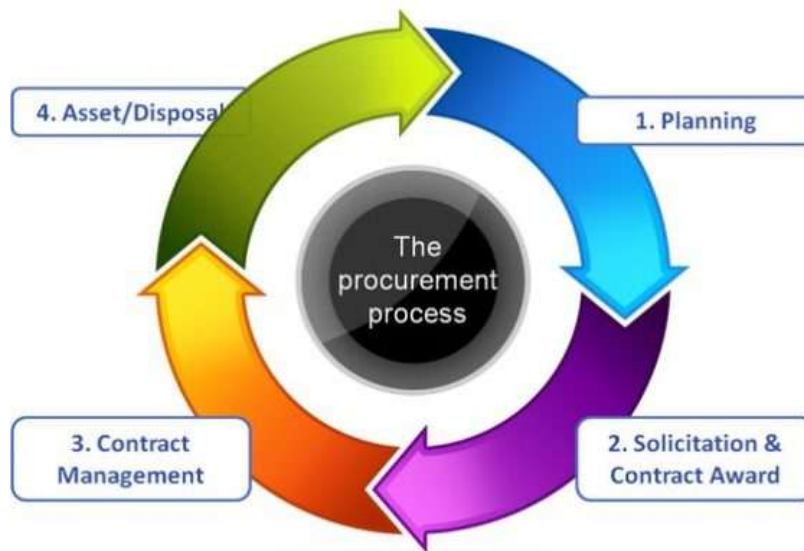
Construction Project – Two Procurement Methods



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Procurement Planning

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Planning and Procurement for Development and Modernization

Requirement	Timing	Funding	Solicitation
<ul style="list-style-type: none">• Method• Materials	<ul style="list-style-type: none">• Overall• Milestones	<ul style="list-style-type: none">• Cost• Sources	<ul style="list-style-type: none">• Statement of Work• Contract Type

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Procurement Planning



- For each procurement action planned, identify:
 - Statement of work (SOW) and type of contract
 - Short-term vs. long-term needs (e.g., physical needs assessment)
- Consider the time constraints:
 - Urgency
 - Type and size of the job
 - Market conditions
- Develop an independent cost estimate (ICE) for each procurement action before advertising...it's confidential!
- Identify the source and availability of funds.
- Develop a schedule for actions planned with due dates.

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Estimating Costs Throughout the Procurement Process

Estimate Level	What It Uses	Accuracy Range	When to Use It
Level 1 – Order of Magnitude	Historical data from past projects, broad scope assumptions	±25% to 40%	Early feasibility, concept validation, high-level funding reviews
Level 2 – Schematic Design	Conceptual floor plans, cost per square foot, general scope	±15% to 25%	Early budgeting, project approval planning
Level 3 – Design Development	Initial design layouts, assumed quantities, material benchmarks	±10% to 20%	Mid-design decisions, internal budgeting, cost alignment
Level 4 – Construction Docs	Detailed plans, specs, unit pricing, material takeoffs	±5% to 10%	Final budget confirmation, tender prep, funding alignment
Level 5 – Bid Estimate	Full bid documents, market pricing, subcontractor quotes	±3% to 5%	Formal contractor bids, contract negotiation, procurement decisions

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Information needed for accurate cost estimates

- **Cost database** — The specialist who prepares construction cost estimates must use an up-to-date cost database in preparing accurate and reliable cost estimates.
- **Detail of the estimate** — Every estimate may not call for detailed line items, but every estimator must know how to prepare detailed estimates. A detailed estimate contains a list of every work item with prices for all labor, material and equipment necessary to complete the proposed work.
- **Skills and knowledge of the estimator** — Construction cost estimators must have a good knowledge of construction systems in order to develop accurate reliable cost estimates.

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Sources of information

- Procurement experts (within or outside the tribe/TDHE)
- Statements of work from similar projects
- Reports and studies from other tribes and departments
- Published cost data, such as RS Means data (software, books)



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Determining Cost Estimates

Divide	work into tasks or phases.
Estimate	labor hours per task or phase.
Estimate	other direct costs (materials).
Estimate	travel costs.
Estimate	indirect costs.

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Cost Estimate							Page 2
	Description	Qty	Price	UM	Draw	Me	Total
51	SITE PREPARATION						
52	• Rough Stake	1	125.00	Lump Sum	0.00	125.00	125.00
53	• Clearing, Grading, Hauling	6	115.00	Hour	0.00	690.00	690.00
54	• Fill Dirt	5	75.00	Load	375.00		375.00
55	• Locate Corners	1	275.00	Lump Sum	275.00		275.00
56					0.00		0.00
57	TOTAL SITE PREP (LINES 52-55)				650.00	815.00	1,465.00
58							
59	FOOTINGS						
60	• Layout, Dig, and Pour	225	1.10	LF	247.50		247.50
61	• Steel	45	5.40	EA	243.00		243.00
62	• Concrete	15	115.00	CY	1,725.00		1,725.00
63	• Drains				0.00		0.00
64	TOTAL FOOTINGS (LINES 60-63)				2,215.50	0.00	2,215.50
65							
66	FOUNDATIONS						
67	• Concrete	20	115.00	CY	2,300.00		2,300.00
68	• Brick				0.00		0.00
69	• Block				0.00		0.00
70	• Mortar				0.00		0.00
71	• Sand	5	85.00	CY	425.00		425.00
72	• Steel	75	5.40	EA	405.00		405.00
73	• Vents				0.00		0.00
74	• Damp Proofing	1	375.00	Lump Sum	375.00		375.00
75	• Backfill				0.00		0.00
76	• Labor	1	1,000.00	Lump Sum	0.00	1,000.00	1,000.00
77	• Foundation Survey	1	475.00	Lump Sum	475.00		475.00
78					0.00		0.00
79	TOTAL FOUNDATIONS (LINES 67-77)				3,980.00	1,000.00	4,980.00
80							
81	PAGE TOTALS (LINES 57, 64, 79)				6,845.50	1,815.00	8,660.50
82							
83							
84							

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Remember...

Good planning determines the procurement method and ensures that goods and services are obtained when needed.

Follow the Golden Rule: Always provide full and open competition!



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Solicitation Process

Encouraging responses to solicitations

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Competition is key!

- Per 2 CFR 200.319, all procurement transactions under Federal awards must be conducted in a manner that provides **full and open competition**. Examples of restrictive actions include, but are not limited to:
 - Unreasonable qualification requirements on firms.
 - Requiring unnecessary experience and excessive bonding.
 - Non-competitive awards to consultants on retainer contracts.
 - Specifying only a brand name product.
 - Organizational conflicts of interest.
 - Any arbitrary action in the procurement process.
- Per 2 CFR 200.319(b) contractors that assist with drafting specifications, statements of work, or IFB's must be excluded from competing for the procurement.
- Per 2 CFR 200.319(d), Tribes and Tribally Designated Housing Entities (TDHEs) must have written procedures for procurement transactions Identify any additional requirements to be fulfilled and factors to be evaluated.

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The Need for Increased Competition

There are many reasons that Tribes look to increase competition for bids or proposals. The most common needs include:

- Lowering the price/cost of goods or services.
- Looking for new services/goods with no current providers.
- Increasing the number of responses.
- Increasing local; minority, women, disadvantaged business entity (MWDDBE); or Native-owned competition because of purchasing policies.

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Possible Constraints to Bidding

IFB or RFP is unclear or poorly written

Inadequate time allowed to bid

Unrealistic project timelines

Native preference or TERO requirements

Inexperience working with Tribes

Federal requirements (bonding, BABA, wage restrictions)

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Advertising and Public Solicitation

- Federal requirements.
 - Full and open competition.
 - IFBs must be “publicly” advertised.
 - RFPs must be publicized.
- Manner and content of publications are up to Tribe/TDHE.
- Diverse media most cost-effective way to increase competition.
 - Newspapers.
 - Trade associations.
 - Procurement listing services.
 - Mailing lists.
 - Tribe/TDHE website and posting locations.
- Notice requirements.
 - Per local ordinance or policies.
 - Generally, 14-30 days depending on complexity.



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Mailing Lists

- Sources.
 - Prior procurements.
 - Current contractors.
 - Firms expressing interest following pre-solicitation notice.
 - A&E firms.
 - National and regional trade associations.
- List management.
 - Periodically purge the list by requesting responses.
 - Update the list with current contractors.
 - Update the list with returned solicitations.



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Electronic Bids and Proposals

- Process where bidders and proposers submit bids and proposals online through a third party.
- Bids can be revised right up to the deadline, thereby eliminating the need to meet in person.
- Advantages include:
 - Time savings for both Tribe/TDHE and contractor/supplier.
 - Streamlines procurement management.
 - Enables better historical data collection.
 - Encourages more participation by contractors/vendors by enhancing and streamlining communications.
 - Encourages “green” process (reduce paperwork).
 - Beneficial during times of pandemics.

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Sealed Bidding

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Sealed Bids: 2 CFR 200.320(b)(1)

- Used mostly for construction contracts.
- Used when the cost estimate is *more than* the \$350,000 Federal Simplified Acquisition Threshold or lower threshold specified in the procurement policy.
- Dependent upon good specifications.
- Two or more bidders willing in the open market.
- Awarded based on *price*.
- Fixed-price contract.

Develop ICE & SOW
for Bid Proposal.

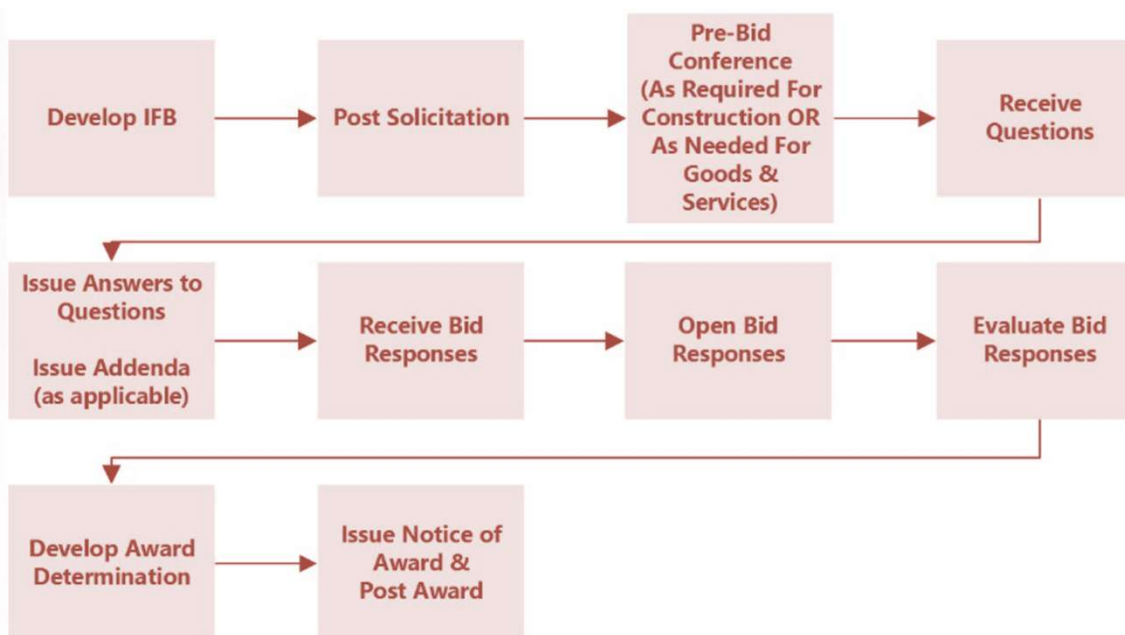
Receive Bids and Open
Publicly.

Determine Lowest
Responsible and
Responsive Bidder.

Execute Contract
(attach forms).

Manage Contract.

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Sealed Bidding – Pros and Cons

Advantages

- **Transparency:** Open and fair process reduces chances for corruption.
- **Competition:** Confidential bids encourage contractors to drive down prices.
- **Cost-effective:** Public benefits from lower-cost projects.
- **Simple evaluation:** Straightforward criteria reduces bias and subjectivity.
- **Straightforward rules:** All contractors can understand the simple rules of the process.

Disadvantages

- **Lack of flexibility:** Little room for negotiation.
- **Narrow focus on price:** Emphasis on price instead of quality.
- **Time-consuming:** Lengthy bidding process delays project start.
- **May stifle innovation:** Contractors are rarely allowed to propose new solutions or ideas.
- **Potential disputes:** Possibility for contractor protest may cost time and money.

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Notices



- A public notice can be used with any procurement, but it is required for formal procurements (IFB and RFP). It is an important step in the solicitation process. The Tribe/TDHE may formally advertise the solicitation in the local, regional, state or national newspaper and/or post the notice to the Tribe/TDHE's webpage, where other procurements are normally shared.
- The goal of any procurement is to receive at least two or more responsive bids from responsible bidders. If necessary, the Tribe/TDHE may need to increase its public notice viewing area to state or national newspapers to receive adequate responses. The Tribe/TDHE must also make every effort to ensure maximum competition is achieved.

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IFB Components

- The period during which bids will be accepted.
- The way in which a bid shall be submitted (form of bid).
- The place where a bid shall be submitted.
- Bonding requirements.
- Native Preference information.
- Include or incorporate by reference:
 - A full description of the procurement items sought.
 - The full scope of work.
 - The required contractual terms and conditions.
 - Wage determinations.

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Bid Documents

- Plans
- Specifications (scope of work)
- Estimates
- Form of bid
- Form of contract
- Incorporated into contract by reference
- Request for Native Preference form

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Statement of Work vs. Scope of Work

Statement of Work

- Describes goals and deliverables.
- Outlines project plan.

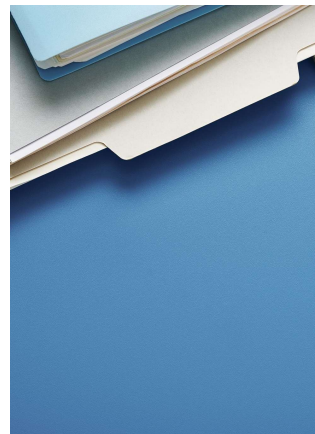
Scope of Work

- Part of statement of work.
- Specific steps to achieve goals.

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Statement of Work Format

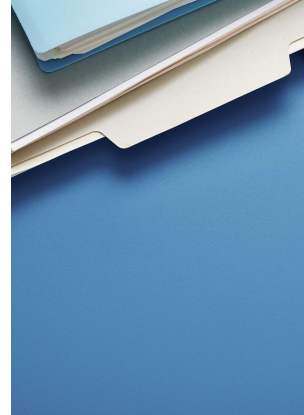
- Part I. General Information
 - A. Introduction
 - B. Background
 - C. Scope
 - D. Applicable Documents
- Part II. Work Requirements
 - A. Technical Requirements
 - B. Deliverables
- Part III. Supporting Information
 - A. Place of Performance
 - B. Period of Performance
 - C. Security
 - D. Special Considerations



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Statement of Work Documents

- **Purpose:** This section of an SOW outlines the purpose and specific goals of the project.
- **Scope of Work:** The scope of work section describes project tasks, the tools required to perform the tasks, and plans to achieve the project goals.
- **Location of work:** This section provides the details regarding where work is to be accomplished and where tools can be accessed.
- **Schedule:** This section lays out the timeline of a project in detail, including the start date and completion date.
- **Deliverables:** This section lists deliverables and due dates throughout the project.
- **Measure of success:** In this section, clients specify criteria for a successful project.
- **Requirements:** This section details the various tools and equipment needed to ensure a successful project.
- **Payment:** This section covers project costs and terms of payment.



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Native Preference Options

(24 CFR 1000.52)

(1) Adopt policies granting preference in procurement to Native-owned firms (such as using the X-Factor); OR

(2) Limit procurement to Native-owned firms; OR

(3) Use two-stage preference.

- Stage 1: Invite Native-owned firms to submit statement of intent.
- Stage 2: If more than one response, limit to Native-owned.

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IFB Format

- Cover letter
- Face page
- Price form
- Specifications/statement of work
- Mandatory clauses (see 2 CFR 200 Appendix II)
- Instructions to bidders, such as Form HUD-5369
- Attachments such as wage determinations

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IFB Revisions

- Must be formalized in writing (addendum) and advertised.
- Provided to every prospective bidder who received IFB, with acknowledgement required.
- If revision is less than 7 days prior to bid deadline, the bid opening should be postponed.



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Pre-bid Conference

A pre-bid conference is an opportunity to get set expectations and make sure contractors understand the project and bid procedure. **Although hosting a conference is not required, it leads to a smoother bidding process.**

Typically, these conferences occur on site. In-person meetings give contractors a chance to tour the building site and better understand the work. You can also host a virtual conference or opt for a hybrid model.

By allowing contractors an opportunity to see the project site and ask questions, it is more likely they will submit a bid.

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Example Invitation for Bids (IFB)

Seminole Tribe of Florida



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Example Invitation for Bids (IFB)

Muckleshoot Tribe



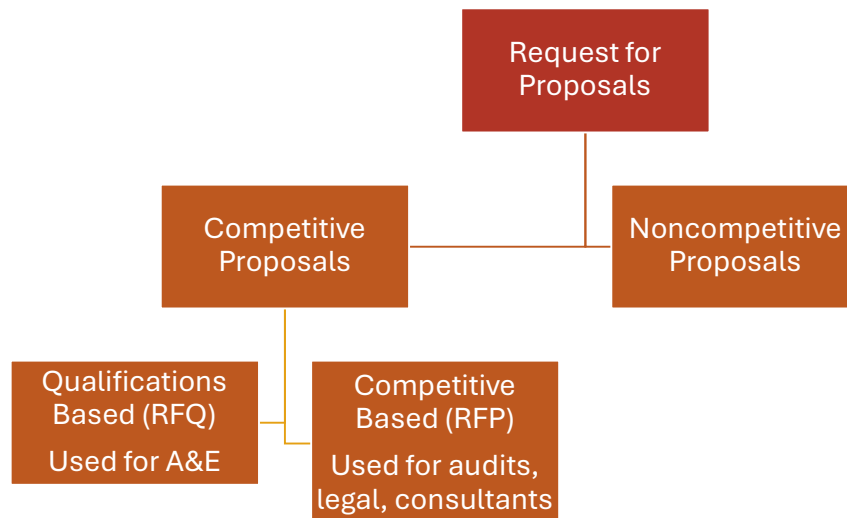
Request for Proposals

When to Use RFP

- ❑ Sealed bidding not feasible.
- ❑ More than one firm submitting proposal.
- ❑ Either fixed-price or cost-reimbursement.
- ❑ Award to be based on factors other than price (for example Design-Build).

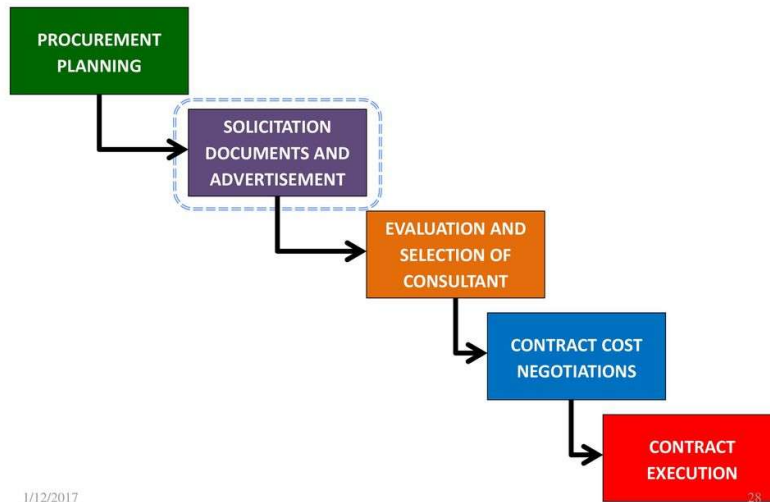


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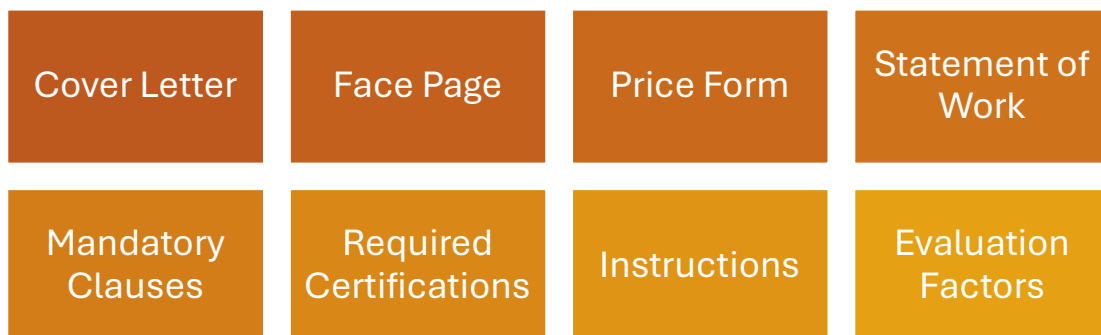
Procurement Process



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Request for Proposals



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Evaluation Factors - Example

Quality of proposal	15 points
General experience	20 points
Experience with Native Orgs	25 points
Experience in Tribe's area	30 points
Native Preference	10 points
TOTAL	100 points

Example RFP for Design-Build Project

Native Village of Eyak



Example RFP for Construction Project

Shoalwater Bay Tribe



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Example RFP for Audit Services

Baranof Island Housing
Authority



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Request for Qualifications (RFQ) Procurement

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Request for Qualifications

- A **Request for Qualifications (RFQ)** is a process used in procurement to compare the expertise of vendors. It is a written request for proposers or bidders to compete for a project based on their experience and ability to perform the project.
- The RFQ document contains background information and context about the need or problem to be solved and questions for vendors to answer.
- The response to an RFQ is not a bid, but rather a detailed description of the vendor's skills and experience. RFQs are commonly used in construction projects to evaluate and shortlist potential contractors, subcontractors, architects, and consultants

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Example RFQ Request for Qualifications

Gary, Indiana



The Contract

Procedures for Negotiation in Construction Contracting

- Contracting Officer (CO) should evaluate bids/proposals and associated cost or pricing data and compare to Tribe/TDHE estimate.
- When bid/proposal price is significantly different than Tribe/TDHE estimate, the CO shall make sure both the contractor and the Tribe/TDHE estimator completely understand the scope of work.
- If negotiations reveal errors in the Tribe/TDHE estimate, the estimate shall be corrected and the changes documented in the contract file.
- If negotiations reveal errors in the contractor's bid/proposal, the Tribe/TDHE shall follow procedures described in procurement policy with respect allowing changes to a bid/proposal, and/or shall reject the bid/proposal and select the next lowest or highest scoring bid/proposal.

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Contracts

Key components of construction contracts

-  **Agreement:** Terms of the contract
-  **Scope of work:** Tasks and deliverables
-  **Conditions:** Provisions applicable to the project
-  **Specifications:** Technical requirements
-  **Schedules and costs:** Project timeline and breakdown of costs

INTUIT Enterprise Suite

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The Objectives of a Contract

Profit.co | Supply Chain Operations



Detail significant dates (delivery, commencement, termination of contract)



Address potential risks and liabilities



Outline the future expectations of both parties



Outline & define the type of goods exchanged

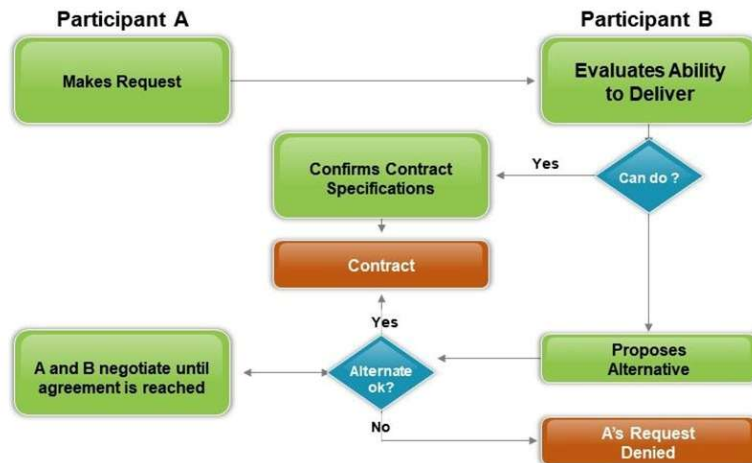


Clearly state the costs & prices



Explain all terms and conditions

Contract Changes and Alternates



BABA and Contractor Procurement

- Tribal Recipients should include BABA language in all applicable contracts and agreements with subrecipients, contractors, developers and subgrantees, as well as in any procurement bid documents to ensure BABA compliance by subgrantees, developers and/or contractors.
- Including BABA requirements in the bid process (in detail) will streamline implementation. It will help ensure that all parties are aware of and meet BABA requirements during design, construction, and recordkeeping.

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BABA Sample Contract Language

“Pursuant to the Build America, Buy America Act (BABA), enacted as part of the Infrastructure Investment and Jobs Act. Pub. L. 117-58, 41 U.S.C. § 8301 note, the Tribal Recipient of the Federal Financial Assistance used to fund this infrastructure project is required to apply a domestic content procurement preference (the “Buy America Preference” or “BAP”) for all construction, alteration, maintenance, or repair of public infrastructure, including buildings and real property, unless application of the BAP has been waived by HUD. Accordingly, this agreement shall be carried out in accordance with BABA.”

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**Example
Construction
Contract**

Stockbridge-Munsee Contract



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**Example
Construction
Contract**

Shoalwater Bay



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Questions?

