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# ESSENTIAL STEPS IN THE CONTRACTING PROCESS

## CHAPTER 6

### The Procurement Process

The New York City contracting process may at first glance seem very complex, but it is similar to other public sector entities.

Public sector procurement, unlike the private sector, brings more sunshine to the process. Taxpayers want to know by what means, how and where their taxes have been spent and with whom. In order to provide this necessary information, we use public notice of our solicitations, awards, open meetings and hearings to announce our plans and, where applicable, to entertain comment from interested stakeholders.

### A Process that is Fair and Impartial

Great effort has been expended to insure that our procurement process is open, competitive, fair and impartial. Competitive sealed bidding, in most cases, is the preferred method of source selection although other methods of source selection are permitted under the rules with the proper review and oversight.

Issues of “responsiveness” and “responsibility” are of key concern to us to make certain there is a level playing field for all suppliers and to avoid doing business with people or businesses who are either unreliable or do not have the requisite business integrity to do business with us.

### Continuous Improvement

The protest, appeal and dispute resolution process are some of the ways we insure openness and fairness in our contracting process. Only by understanding the past and by eliminating mistakes, can we hope to improve upon our performance.

We believe that an informed supplier will be our best supplier if that supplier knows and becomes familiar with the process we use to select our contractors. It is our belief that once having understood the process, these suppliers will become our greatest assets and supporters.

### Unraveling the Competitive Process

This chapter deals with the “**Essential Steps in the Contracting Process.**” We have attempted to list most, if not all of the significant steps we go through to complete a procurement. Some of these steps will involve you and some will not, but we have shared the entire process with you so you will understand that there is more involved here than just simply an “**Invitation for Bid**”, a **bid** and then a **contract**.

Other types of purchases such as “**Sole Source**”, “**Emergency Procurement**” and “**Small Purchases**” are very much abbreviated due to the limited amount of competition, shortened competitive process and are therefore, not shown here. They can be found in Chapter 3 which deals with the “**Basic Methods of Purchase.**”

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## Procurement Streamlining

Procurement Policy Board (PPB) changes have had the impact of simplifying all policy, rules and procedures, placing more authority in the hands of Agency Chief Contracting Officers and shortening procurement cycle time. More changes and improvements are anticipated as the streamlining process continues. This streamlining has had the effect of reducing our Rules by over half of what they originally were in 1990.

## Phases and Steps of the Procurement Process

We have divided the procurement process into five basic **phases** under which there are steps that must be completed in order to move on to the next phase. These phases are:

- Phase I - Presolicitation**
- Phase II - Solicitation**
- Phase III - Evaluation/Selection**
- Phase IV - Award**
- Phase V - Registration**

There is a **Phase VI** that has been addressed in **Chapter 8 “Vendor Rights and Responsibilities”** and that is **Contract Administration**. Contract Administration is the process of ensuring and documenting performance, handling contract changes, avoiding and resolving disputes, payment and final contract close-out.

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# **PROCUREMENT PROCESS: COMPETITIVE SEALED BIDDING (CSB) AND COMPETITIVE SEALED PROPOSALS (CSP)**

## **PHASE I - PRESOLICITATION**

### **Agency:**

1. Establishes the need for particular goods, services or construction to fulfill the agency's mission.
2. Conducts a presolicitation review to identify potential sources in the marketplace, determine the level of competition and prevailing prices, estimate cost and contract term requirements, determine the appropriate method of procurement, etc.
3. May conduct a presolicitation conference.
4. Develops specifications and/or scope of services/work.
5. May establish minimum vendor qualifications.
6. Develops the applicable solicitation document (i.e., Invitation for Bid or Request for Proposals).
7. Submits the Invitation for Bid (IFB) to the Law Department for approval. [CSB only]
8. Establishes evaluation criteria and appoints an Evaluation Committee. [CSP only]
9. Prepares a Presolicitation Review Report and obtains all required internal and oversight approvals.

## **PHASE II - SOLICITATION**

### **Agency:**

1. Sends notices of solicitation to vendors on the appropriate bidder or prequalified list.
2. Publishes a Notice of Solicitation in the City Record and the City's Procurement Bulletin Board.
3. Issues the Invitation for Bid (IFB) or Request for Proposals (RFP).
4. May conduct a mandatory or non-mandatory Pre-Bid or Pre-Proposal Conference.
5. May conduct a mandatory or non-mandatory site visit.

### **Vendor:**

6. Attends a mandatory pre-bid or pre-proposal conference and/or site visit; may attend a non-mandatory pre-bid or pre-proposal conference and/or site visit.

### **Agency:**

7. May issue amendments to the IFB/RFP.

### **Vendor:**

8. Prepares their bid or proposal.
9. Submits their bid or proposal by the due date and time established in the IFB/RFP.

### **Agency:**

10. Secures all sealed bids/proposals received prior to the established due date and time.

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## **PHASE III - EVALUATION/SELECTION**

### **Agency:**

1. Publicly opens and tabulates bids or opens proposals.
2. Evaluates bids or reviews and rates proposals pursuant to the evaluation criteria established in the RFP.
3. May conduct discussions/negotiations with all or a “short list” of proposers and subsequently request and rate “best and final offers.” [CSP only]
4. Determines the apparent lowest responsive bidder or the highest rated and/or highest ranked proposer pursuant to the basis for award established in the RFP.
5. Determines that the lowest responsive bidder is responsible or determines that the selected proposer is responsible.
6. Conducts a public hearing on the proposed contract award and considers testimony received, if any. [CSP over \$100,000 only]
7. May conduct price negotiations with the lowest responsive and responsible bidder or may conduct final contract negotiations with the selected proposer.

## **PHASE IV - AWARD**

### **Agency:**

1. Submits the final contract to the Law Department for approval. [CSP only]
2. Prepares a Recommendation for Award and obtains all required internal and external approvals.
3. Issues a Notice of Award.

### **Selected Vendor and Agency**

4. Execute the contract.

## **PHASE V - REGISTRATION**

### **Agency:**

1. Prepares the advice of award.
2. Submits the required contract documents to the Comptroller’s Office.

### **Comptroller:**

3. Registers the contract (i.e., encumbers the necessary funds) within 30 days unless objected to on grounds of corruption