

THE HFA INSTITUTE 2021

Procurement in Brief

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National Council of
State Housing Agencies



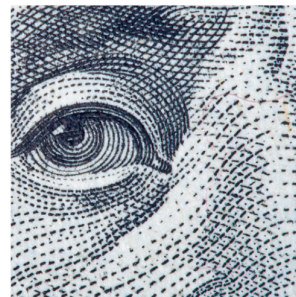
**MRBs and
Other Federal
Homeownership
Programs**
FEBRUARY 1 – 3



Housing Credit
FEBRUARY 3 – 5



**Section 8 and
Other Federally
Assisted
Multifamily
Housing**
FEBRUARY 8 – 10



**HOME and
Housing Trust
Fund**
FEBRUARY 10 – 12



- The PBCA Solicitation
- Protest Forums
- The Federal Acquisition Regulation (FAR)
- The Procurement Process
- PBCA Solicitation – Key Compliance Concerns
- Administration of Government Contracts

The PBCA Solicitation

- PBCA services must be acquired in compliance with “federal procurement laws, including CICA and the FAR”. *CMS Contract Management Services v. Massachusetts Housing Finance Agency*, 745 F.3d 1379, 1381 (Fed.Cir. 2014)
- New solicitation(s) are due anytime – Stop me if you’ve heard this one before...
- Protests will undoubtedly occur for several reasons:
 - RFP(s) are not limited to PHAs
 - RFP(s) are limited to PHAs
 - More than one RFP - tasks divided on a National and Regional basis
 - Other inequitable/ambiguous terms



Protest Forums



The Federal Acquisition Regulation (FAR)

- Compilation of regulations and contract clauses *generally* apply to federal procurement
- Covers contract formation and administration
- FAR Parts 1 – 51, descriptive and prescriptive
- FAR Part 52, contract clauses, correspond to FAR Parts 2 – 51
- HUDAR – additional clauses that supplement the FAR



The Procurement Process

- RFP Sections A – M and attachments
- Key Sections at C, L, and M
 - Section C – Statement of Work/description of the program and program goals as well as specifications of the work to be performed by the contractor
 - Section L – Instructions and Restrictions
 - Section M – Evaluation Factors



The Procurement Process

- **Procurement Process Before the Due Date**
 - Questions and answers
 - Pre-proposal conference
 - Amendments
- **Procurement Process After the Due Date**
 - Determination of a competitive range
 - Discussions/clarifications
 - FPRs
 - Notice of award



PBCA Solicitation – Key Compliance Concerns

- **Service Contract Labor Standards (FAR 52.222-41)**
 - Exceptions for professional, managerial and administrative – be careful to read the definitions (salary requirement)
 - Wage determinations – vary by location
- **Basic Safeguarding of Covered Contractor Information Systems (FAR 52.204-21) – CMMC Lite?**
 - Protect covered contractor information systems
 - Basically all systems are covered

PBCA Solicitation – Key Compliance Concerns

- **Paid Sick Leave (FAR 52.222-62)**
 - Up to seven days of paid sick leave annually
 - No conflict with state laws
- **Small Business Subcontracting Plans (FAR 52.219-9)**
 - Requirement to track and report dollars spent on subcontractors including, small, large, WOSB, VOSB, SDVOSB, HUBZone, and SDBs
 - Goals, not quotas

PBCA Solicitation – Key Compliance Concerns

- **Section 889(a) and (b) – NDAA Compliance (FAR 52.204-25)**
 - Prohibition on contracting for certain telecommunications and video surveillance services or equipment
 - Providing *and* using the prohibited equipment
 - Waivers rare

Administration of Government Contracts

- Mitigate risks and stay compliant
- Know the requirements – READ!
- Implement policies and audit them
- Flow down requirements to subcontractors



Thank you!



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If you have any questions about the content in this session, please reach out to Andrew or Kelly directly. Thank you for attending!