



Board of Public Works

Nancy K. Kopp, Treasurer **Martin O'Malley, Governor** **Peter Franchot, Comptroller**

Advisory No.: 2006-1
Date Issued: December 16, 2011
Subject: Procurement - Action Agendas: Required Backup Documentation

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Executive Secretary

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6th Revision

Purpose: The Board of Public Works reviews and approves the award of procurement contracts (that are not delegated) before agencies may enter into the contracts. Each procurement contract requiring the Board's approval is submitted to the Board on the appropriate Action Agenda. This Advisory outlines certain information that procurement agencies must submit to the Board to facilitate its review of contract award recommendations. This is not an exclusive list; additional information may be appropriate or required but Items must include the following at a minimum.

Authority: COMAR 21.02.01.05

Procedure:

I. **Action Agenda Items** must have the following fields:

A. *Type of contract* (acronym to be used with Item number):

- Architectural/Engineering Services (AE)
- Construction (C)
- Services (S)
- Information Technology (IT)
- Maintenance (M)
- Equipment (E)
- Energy Performance (EP)
- Landlord Lease - State is landlord (LL)
- Tenant Lease - State is tenant (LT)
- License (L)

Recommendations to modify existing contracts are indicated by adding "Mod" after the Item identifier, e.g., 5-C-Mod. Recommendations to exercise options contained in existing contracts are indicated by adding "Option" or "Opt" after the Item identifier, e.g., 5-C-Option.





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B. *Procurement Method*

Competitive Sealed Bid (indicate if single bid)
Multi-step Sealed Bid (indicate if single bid)
Competitive Sealed Proposal (indicate if single offer)
Sole Source
Negotiated Award After Unsatisfactory Competitive Sealed Bidding
Preference Provider
Noncompetitive Negotiated Procurement
Architectural/Engineering Act
Intergovernmental Cooperative Purchasing
Expedited (Port and Aviation Administration only)
Emergency (Note: Items reporting emergency procurements must detail the basis for the selection of the contractor)

C. *Bids/Offers*

If competitive sealed bid method, indicate each bidder's price bid. If competitive sealed proposal method, display a summary showing both technical scores (or rankings if numerical scoring not used), financial offers, and composite score or ranking.

D. *Term*. Indicate the start date and the end date. List any option terms contained in the contract.

E. *Minority Business Enterprise (MBE)*: Participation, **Compliance**, and Goal Waivers

(1) *MBE Participation Field*.

MBE Participation

New contracts: Indicate the MBE participation that the contractor has agreed to.

Renewal options: Indicate the MBE participation that the contractor agreed to for the original term and the MBE participation that the contractor agreed to for the option term.

Modifications: Indicate the MBE participation that the contractor agreed to for the term to which the modification applies.





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MBE Compliance

New contracts: Not applicable.

Renewal options: Indicate the percentage of MBE participation achieved to date including the initial contract term and any previous option terms.

Modifications: Indicate the percentage of MBE participation achieved from contract start date to Item date.

- (2) *MBE Goal Waivers.* If the contractor was given a waiver of the MBE goal that was set in the solicitation, insert a field indicating the percentage of the waiver. Explain in the Remarks section why the waiver was granted. The omission of a "waiver" field implies that the contractor has agreed to meet or exceed the MBE goal set forth in the solicitation.

F. *Performance Security*

Indicate whether the contract does or does not require a performance bond (or other security) requirement and the amount of any required security.

G. *Hiring Agreements*

Indicate if the contract has been designated an eligible contract for hiring agreements pursuant to Secretary's Agenda Item 18 (January 13, 1999) and §13-224 of the State Finance and Procurement Article. The omission of a "hiring agreement" field implies that the contract has not been so designated.

H. *Remarks*

At a minimum, in this field:

- Detail outreach efforts to encourage Minority Business Enterprises, small businesses, and resident businesses to respond to the solicitation.
- If known, explain why solicited vendors did not submit bids or proposals. (The attached form may help the procurement agency discover that information.)





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- If competitive sealed proposal method used, describe the strengths of the winning offeror's proposal.
- If a protest was filed, state the date of the protest and whether it was resolved. If the protest or appeal is unresolved, detail why the execution of the contract without delay is necessary to protect substantial State interests. See COMAR 21.10.02.11.
- If the Item recommends exercising an option contained in the original contract, explain why. Factors entering into the agency's recommendation may include pricing, market conditions, compliance (including MBE compliance), performance, etc.

II. **Back-Up Documentation** submitted with Action Agenda Items must include:

A. *Sole Source Procurements*

A copy of the written sole source determination with signatures from the procurement officer and the agency head or designee. See COMAR 21.05.05.02B.

B. *Emergency Procurements*

A copy of the record of the emergency procurement with signatures from the procurement officer and the agency head or designee. See COMAR 21.05.06.02D.

B-1. *Extensions*

- This subsection applies to EVERY request to extend a contract submitted to the Board of Public Works even if the contract is not subject to Division II of the State Finance and Procurement Article. As an example, this subsection applies to revenue-producing contracts at State transportation facilities that involve a license to use or lease of State facilities. NOTE: The exercise of a formal renewal option contained in a contract is not considered an extension modification.
- When an agency submits a recommendation to the Board of Public Works to extend a contract beyond the contract's expiration date, the modification Item must be accompanied by a letter signed by the Department Secretary or agency head that details why the extension is needed and what the consequences will be if the extension is not approved and the current contract expires.





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C. *One Bid/Proposal Received*

A copy of the written determination that acceptance of the one bid or the one proposal received is appropriate. See COMAR 21.05.02.20.

D. *Procurements Under Protest or Appeal* (or where MSBCA appeal deadline has not passed)

For those procurements for which the agency seeks approval in the face of a protest or MSBCA appeal (or where the appeal deadline has not passed), a copy of the protest(s) and the agency's response (if any).

E. *All Procurements*

List of vendors directly solicited, identifying resident businesses and certified MBEs.

F. *MBE Supplement*

1. Complete Subcontractor Project Participation Statement from each MBE subcontractor.
2. Copy of MBE waiver determination where applicable.
3. If Item seeks approval to modify or renew an existing contract, information concerning contractor's compliance with MBE goals. For example, the agency may list: (a) the amount of payments made to MBE subcontractors stated as a percentage of the total payments made to date; and (b) the percentage of progress toward contract completion.

In addition to distributing all back-up to the Board and Board members, agenda preparers must ensure that the MBE Supplement back-up is simultaneously submitted to the Governor's Office of Minority Affairs.

Attachments: This Advisory has two attachments: a sample Item template for a standard procurement contract; and a suggested form for surveying vendors concerning "no bids."





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Questions on this Advisory may be addressed to:

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80 Calvert Street, Room 117
Annapolis, Maryland 21401
410.260.7335
Toll Free: 877-591-7320
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Attachment I
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**DEPARTMENT
ACTION AGENDA
(sample)**

INFORMATION TECHNOLOGY CONTRACT

ITEM: #-IT Agency Contact: John Doe
410.xxx.xxxx
jdoe@dept.state.md.us

DEPARTMENT/PROGRAM: Department Training Program

CONTRACT ID: T00R0000000
Cool Site Maintenance
ADPICS NO. R00B0000000

CONTRACT DESCRIPTION: Web site maintenance

AWARD: Vendor, Inc.
Annapolis, MD

TERM: 7/1/2006 - 12/31/2006

AMOUNT: \$600,000 (6 Months)

PROCUREMENT METHOD: Competitive Sealed Proposal
Single offer received

PROPOSALS: Vendor, Inc.

MBE PARTICIPATION: 20%

MBE WAIVER: 5%

PERFORMANCE SECURITY: Performance bond at 100% of contract amount

HIRING AGREEMENT ELIGIBLE: Yes

INCUMBENT: Same

Red Ink Indicates Optional Field





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Attachment II
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**STATE OF MARYLAND
 VENDOR COMMENTS**

To help us improve the quality of State solicitations and make our procurement process more responsive and business-friendly, we ask that you take a few minutes to complete this form. Thank you for your assistance.

Bid/Proposal Number: _____ Entitled: _____

I. If you are not bidding, please indicate why:

- Other commitments preclude our participation at this time.
- The subject of the contract is not in our business line.
- We lack experience in the work/commodities required.
- The scope of work is beyond our current capacity.
- We cannot be competitive. (Please explain below.)
- The specifications are either unclear or too restrictive. (Please explain below.)
- Bid/proposal requirements, other than specifications, are unreasonable or too risky. (Please explain below.)
- Time for completion is insufficient.
- Bonding/insurance requirements are prohibitive. (Please explain below.)
- Doing business with government is simply too complicated.
- Prior experience with State of Maryland contracts was unprofitable or otherwise unsatisfactory. (Please explain below.)
- Other: _____

II. Please explain your response further, offer suggestions, or express concerns. (Use the back for additional information.)

Remarks: _____

OPTIONAL:

Vendor Name: _____ Date: _____

Contact: _____ Phone: _____

Address or email: _____

THANK YOU!!!

