



**Office of  
Systems  
Integration**  
"SERVING CALIFORNIA"



## Training Module:

# METHOD OF PROCUREMENT

**County APD Process Training**

**November 16, 2007**

# Introduction

- Section 6 of the APD Template:
  - *Method of Procurement*

# Guidance for Section 6

- *APD Template with Samples*
- *APD Content Development Aid*
- *APD Procurement Pre-Review Checklist*

# How to Complete Section 6

## Description of Individual Purchase

- NOT “we’ll follow county policies”
- NOT “we’ll follow State and federal regulations
- NOT “We will do a competitive procurement consistent with State and federal law”

# How to Complete Section 6

## Description of Individual Purchase

- How the County will acquire each good/service
  - Leveraged procurement
  - small purchase process
  - sole source acquisition
  - RFP

# How to Complete Section 6

- Combination purchases  
(equipment/service/software)
  - include a description of purchase for each type of good/service

# How to Complete Section 6

## Full and Open Competition

- How will procurement be announced?
  - *Publicly Advertised*
  - *3 quotations*
- Who will be allowed to bid?
  - *no restrictions on participants/bidders*
- What is the evaluation criteria
  - *Lowest bid*
  - *Best Value*

# How to Complete Section 6

## Address Federal Concerns

- Local Preference
  - “Our county does not have a local preference”
  - “This purchase is exempt from our county’s local preference because. . . “
  
- Audit and Record Retention Clause
  - “The audit clause is in our P.O. “



# How to Complete Section 6

## Small/Informal Solicitations

- Consistent with County policy
- Identify specific page or section
- Three quotes required

# How to Complete Section 6

## Sole Source Procurement

- Consistent with County policy
- Identify specific section or page
- Justification/Business Case
- Cost/Price Analysis

# How to Complete Section 6

## Contract Amendments

- Base Contract – previously approved
- Base Contract – competitively procured
- Base Contract – free of local preference
- Audit retention clause in base contract or amendment thereto

# How to Complete Section 6

## Leveraged Procurement

- Procurements by County, State or region
- Take advantage of economies of scale
- Examples (CMAS, MSA, CSSI, WSCA)

# How to Complete Section 6

To use, LPAs, Counties Must Submit:

- APD
- Solicitation document for LPA (e.g., RFP)
- Contract
- Draft Purchase Order, Task Order or similar vehicle

# How to Complete Section 6

- Leveraged procurement must meet requirements for free and open competition:
  - Advertised to general public
  - Open to any interested bidder
  - No unreasonable or restrictive requirements
  - No local preference operative
  - No name brand requirements (without “or equivalent”) unless supported by sole source business justification

# How to Complete Section 6

- Purchase Order must also meet requirements of open competition:
  - Audit/record retention clause (unless already in LPA)
  - No local preference operative
  - No name brands without “or equivalent” unless supported by sole source business justification

# Procurement Self-Certification

## Option for Some Acquisitions

- Procurement Self-Certification Form
  - County sends in signed form in lieu of procurement documents
  - County certifies that procurement documents meet State and federal requirements
  - No State review of procurement documents
  - State reserves right to request documents
  - County still needs to send in APD, usually



# Procurement Self-Certification

## Eligible Acquisitions

- SAWS acquisitions below
  - \$5M (competitive)
  - \$1M (noncompetitive)
- CWS/CMS acquisitions below
  - \$100,000

# Software Purchases

## Federal Requirement (45 CFR 95.617)

### Ownership Clause in Contract

- County owns software, modifications, and associated documentation designed, developed or installed with FFP
- County grants an irrevocable license to federal government to use such software
- Does not apply to Commercial Off-the-Shelf (COTS) Software

# Software Purchases

## Sample Software Ownership Clause

- The County shall retain all ownership rights in any software or modifications thereof and associated documentation designed, developed or installed with Federal Financial Participation (FFP). The U.S. Department of Health and Human Service (HHS) reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, and otherwise use and to authorize others to use for Federal Government purposes such software, modifications, and documentation. Proprietary operating and third-party software packages which are provided hereunder at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership and licensing provisions of this paragraph.

# Software Purchases

## Federal Prohibition

- No FFP for software developed especially for public assistance programs
- Option: free license from another governmental entity
- Option: buy services

# Common Issues and Findings

- Not including audit and record retention clause
- Not ensuring that county's local preference will not apply to this procurement
- Not including software ownership clause
- Executing contract prior to approval

# How Do I Get Started?

- Start with *APD Template*
- Review *APD Guidelines*
- Review *APD Development Aid*
- Review and Sign *County Procurement Certification* where applicable.
- *Review FAQs*
- *Call APD Coordinator*

# Other References

## Training participants will be given copies of:

- *County Procurement Certification*
  - *APD Template*
  - *FAQs*
- *APD Procurement Pre-Review Checklist*

## Legal References:

Federal Law:

45 C.F.R. § 92.1

45 C.F.R. § 92.36

45 C.F.R. § 94.611

45 C.F.R. Part 95, Subpart F

Federal Policy:

ACF-AT-92-5 - Contract Terms

ACF-93-03 - State Responsibilities

IM 05-02 - Federal Acquisition Checklist

IM 05-04 - Master Contracts

ACYF-CB-PI-07-10 - Update on Child Welfare Information Systems Requirements for  
Free and Open Competition

State Law: Division 28 Regulations

# Thank You