

COMMITTEE ON HOUSE ADMINISTRATION

GUIDELINES FOR PROCUREMENT
OF GOODS AND SERVICES
FOR THE U.S. HOUSE OF REPRESENTATIVES

(As issued March 18, 2010)

I. All acquisitions of goods and services for the U.S. House of Representatives (hereinafter "the House") shall be conducted in a manner above reproach. Any such acquisitions shall utilize the maximum possible competition consistent with the government's interest. Inconsistent practices, such as unreasonable qualifications, unreasonably short time frames to submit bids, unnecessary expenses, excessive bonding, or arbitrary actions, shall not be utilized. Contracts will be awarded to a responsible bidder whose offer conforms to the solicitation and is the most advantageous to the House when all relevant factors are considered.

(A) The Chief Administrative Officer (hereinafter "the CAO") is responsible for House procurement activity and shall to the maximum extent practicable:

- (1) Acquire commercially available, life cycle cost effective items and services that meet the needs of the House;
- (2) Acquire goods and services that meet environmentally sustainable purchasing standards.
- (3) Contract with contractors and subcontractors who demonstrate and describe corporate sustainability efforts, including corporate greenhouse gas mitigation plans.

(B) The CAO shall ensure that awards are made only to responsible contractors with demonstrable ability to perform successfully under the terms and conditions of a proposed procurement. Such matters as contractor integrity, technical capability, past performance, demonstrated commitment to environmentally responsible corporate practices, and financial and technical resources may be considered in determining responsible bids and awards. The CAO shall maintain records detailing the significant history of a procurement, including at a minimum: the solicitation, bids or proposals received, any applicable evaluation process documentation, the contract award, and any modifications thereto.

(C) The CAO shall be responsible for settlement of contractual and administrative issues arising out of procurements, and shall develop procedures to handle and resolve any disputes relating to procurements.

(D) The CAO shall develop written selection criteria for procurements to ensure that all solicitations:

- (1) Present a clear and accurate description of the technical requirements for the

material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Excessively detailed product specifications should be avoided. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or "equal to" description may be used in defining performance. The specific features of the name brand which must be met by offerors shall be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals, including documentation of corporate sustainability plans and environmental policies.

(E) The CAO shall to the maximum extent practicable:

(1) Require prime contractors and subcontractors to incorporate commercially available and environmentally sustainable items as components, to the maximum extent practicable;

(2) Use specifications that enable and encourage bidders and offerors to supply commercially available items; and

(3) Encourage small, disadvantaged, women-owned, and veteran-owned business concerns to compete for requirements in which they qualify.

(4) When acquiring energy-using products, purchase products in compliance with Restriction of Hazardous Substances (RoHS), ENERGY STAR[®], EPEAT (Electronic Product Environmental Assessment Tool) or other energy-efficient items listed on the Department of Energy's Federal Energy Management Program (FEMP) Product Energy Efficiency Recommendations product list; and for products that consume power in standby mode purchase items that are listed on FEMP's Standby Power Devices product listing in accordance with paragraph III (B) below; and

(5) Where applicable, consider the following additional relevant factors: the ability of the contractor to provide goods and services that minimize greenhouse gas emissions and consumption of energy, water, materials and natural resources throughout the life cycle of the product or service.

(F) Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. To this end, the CAO shall maintain written standards of conduct governing the performance of employees engaged in the award and administration of contracts. Such standards shall include penalties, sanctions or other disciplinary actions for violations of the standards by the CAO's officers,

employees or agents, or by contractors or their agents.

(G) Such standards shall further provide that no employee, officer or agent of the CAO shall participate in selection, or in the award or administration of a contract supported by House funds if a conflict of interest would be involved. Such a conflict would arise when the following individuals or groups have a financial or other interest in the firm selected for award:

- (1) The employee, officer or agent;
- (2) Any member of his or her immediate family;
- (3) His or her partner; or
- (4) An organization which employs, or is about to employ, any of the above.

Such standards shall further establish and describe the procedures and criterion for determining if such a financial or other conflict of interest exists, and for granting a recusal from participation.

II. The CAO shall develop and implement a systematic and coordinated planning process for procurement activities, to include a Procurement Plan for each Fiscal Year. By September 15th of each year, the CAO shall approve and submit to the Committee on House Administration (hereinafter "the Committee") a copy of the CAO Procurement Plan for the immediately following Fiscal Year.

III. All acquisitions made by the CAO for the House shall be entered into in accordance with one of the methods set forth below, or a combination of these methods.

(A) **Federal Supply Schedule and Other Government Sources.** The General Services Administration directs and manages the Federal Supply Schedule which provides Federal agencies and the CAO with a simplified process for obtaining commonly used supplies and services at prices associated with volume buying. The CAO may follow the procedures laid out in the "GSA Supply Catalog" which includes a listing of Federal Supply Schedules and information on their use. The CAO may also purchase goods or services under contracts entered into or administered by other Federal agencies, including Government-Wide Acquisition Contracts (GWACS). The above modes of procurement may be used on an optional basis as appropriate, available, and allowable. Further, pursuant to 2 U.S.C. 111 and 111b, the CAO may purchase such goods or services at a unit price or under terms and conditions which are more favorable to the House than those offered to the contracting entity of the Federal government.

(B) **User's Guide to Setting Up an Office.** All purchases covered by the aforementioned Guide, adopted by the Committee on January 3, 2005, should be made through the appropriate CAO office. House Offices may purchase by this method such covered equipment, software and related services as are necessary for the operation of

functions over which they have responsibility, from funds appropriated for such purposes. Such purchases shall be exempt from paragraph III (G) and (H), and are encouraged to meet energy-using product criteria of paragraph I(E)(4).

(C) Small Purchase and Other Simplified Purchase Procedures. These are simple and informal procurement methods for securing services, supplies, or other property that do not aggregate to more than \$70,000 in any fiscal year.

(1) When the amount involved for a single purchase order is in excess of \$3,500, but not more than the Small Purchase Threshold of \$70,000, such purchase may be made by documented competitive quotations wherein there shall be obtained a minimum of three offers from three separate offerors, or two offers from two separate offerors, if only two are engaged in the conduct of such business. If goods or services are being obtained from a General Services Administration (GSA) Schedule or other Government-wide contract then only one quote is necessary between \$3,500 and \$70,000. Requirements aggregating more than the small purchase dollar limitation shall not be broken down into several purchases that are less than the limit merely to permit the use of small purchase procedures, and every reasonable effort shall be made to anticipate the need for subsequent purchases of such items during the fiscal year in determining the procedures to be followed. The CAO shall place in effect controls which ensure that no order is split to avoid competition requirements applied above to the Small Purchase Threshold.

(2) When the amount involved in the procurement in the aggregate is less than three thousand five hundred dollars (\$3,500), and the CAO determines that the price is fair and reasonable, no more than one quote need be obtained, so long as orders are not split to avoid the competitive threshold requirements.

(D) Sealed Bidding. The CAO shall establish and utilize such procedures as necessary to insure fair and impartial awards of contracts for supplies or services for the House after advertising a sufficient time previously for proposals. Contracts are to be awarded to the responsible bidder whose bid, conforming to the solicitation, will be the most advantageous to the House, considering price and price-related factors specified in the solicitation. All bids may be rejected if such action is in the public interest. Informalities and minor irregularities in bids received may be waived.

All bids submitted in response to a solicitation shall be kept sealed (except for opening and testing in accordance with House mail processing procedures) until the opening date and time specified in the solicitation. The sealed bids shall be publicly opened in the presence of at least three House employees and any prospective bidders and/or members of the public who choose to be present. The Committee and bidders shall be notified of the time and place of such bid opening by means of the solicitation document.

(E) Competitive Proposals (Negotiated Contracts). After advertising for a sufficient period of time, competitive proposals submitted to the CAO in response to solicitations of

contracts for supplies or services for the House, shall be evaluated for an assessment of both the proposal and the offeror's ability to successfully accomplish the prospective contract. Sufficient time is to be given to bidders to prepare offers. The CAO shall evaluate the proposal for relevant factors, technical quality and price. The criteria for evaluating competitive proposals shall be based solely on the factors specified in the solicitation. The solicitation shall also list the relative importance of the evaluation criteria when they are not of equal weight. The CAO shall conduct a cost or price evaluation to determine whether it is reasonable and reflects the offeror's understanding of the work and the ability to perform the contract.

The CAO shall establish and utilize such procedures as are necessary to insure fair and impartial evaluation of the offers, and shall document the evaluations. A signed written determination must be placed in the contract file by the CAO appropriately discussing how the winning offer was determined and selected. The CAO shall award a contract resulting from the solicitation to the responsible offeror whose offer, conforming to the solicitation, will be the most advantageous to the House, cost or price, and other factors specified in the solicitation considered. The Committee shall be provided a copy of the solicitation prior to its public issuance, and advised of any changes not reflected in the original solicitation, as well as the contractor selected for award.

(F) Other Procedures. The CAO may, by entering written certification in the acquisition file, authorize contracting without utilizing the maximum possible competition consistent with the government's interest only when the award of a contract is not practicable under any of the above procedures, and one of the following circumstances applies:

- (1) The item is available only from a single source (only one supplier, exclusive control or possession in the sale of goods and services) and no other supplies or services will satisfy the requirements;
- (2) The public exigency will not permit a delay resulting from competitive solicitation;
- (3) After solicitation of a number of sources, competition is determined inadequate; or,
- (4) It is in the public interest, none of the preceding exceptions apply, and Committee approval has been obtained.

(G) The CAO or his designee shall not commence negotiations for a single source contract, commence negotiations for a contract resulting from an unsolicited proposal, or award any other contract without providing for maximum possible competition consistent with the government's interest, unless the CAO or his designee justifies the use of such actions in writing, having first certified a report on the matter prepared by technical and requirements personnel as being accurate and complete, and having the data necessary to support the recommendation for other than maximum possible competition consistent

with the House's interest.

(H) An acquisition that uses a brand name description or other purchase description to specify a particular brand name product or feature of a product, peculiar to one manufacturer, shall not be made, unless accomplished pursuant to the same written justification and reports as outlined immediately above. Cost analysis, i.e. verifying the proposed cost data, the projections of this data, and the evaluation of the specific elements of cost and profit, may also be required.

(I) The process leading to contract award under paragraph III (B),(C)(1), (E) and (F) may allow for negotiation, a procedure that includes the receipt of a proposal, permits bargaining, and usually affords an opportunity for the offerors to revise their offers before award of a contract. Bargaining may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.

IV. Bonds. Performance or payment bonds shall not be required except when necessary to protect the interest of the House.

(A) The following situations may warrant the posting of a bond.

(1) Government/House property or funds are to be provided to the contractor for use in the contract.

(2) A contractor sells assets to or merges with another concern and the House, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable of performance.

(3) Substantial progress payments are made before delivery of an item starts.

(B) When a bond is required, the solicitation shall specify the requirement for the bond; the penal sum of each bond (expressed as a fixed sum or percentage of the contract price) or penal coverage required in case of annual bonds; and the deadline for submitting acceptable bonds.

V. The general rule is that no contract shall have a performance period in excess of one (1) year. The CAO may, however, include renewal options in contracts for one or more periods, when it is in the interest of the House, or may execute multi-year contracts for certain categories, such as telecommunications, automatic data processing, leases and others, that lend themselves to longer periods. All contracts with a performance period in excess of one year shall be approved by the Committee. Further, the CAO shall notify the Committee of the intention to exercise a contract renewal option or to pursue an extension 30 days before the end date of the current performance period.

VI. All contracts and purchases of goods and services by the CAO, in excess of three hundred fifty thousand dollars (\$350,000), shall be approved by the Committee.

VII. All purchases of furniture and carpets by the CAO shall be made pursuant to 2 U.S.C. 2012 and 2 U.S.C. 2184. Adoption of these Guidelines by the Committee constitutes a standing written order from the Chairman of the Committee to the CAO authorizing the purchase of furniture and carpets for the U.S. House of Representatives, consistent with the procedures contained in these Guidelines.

VIII. Each month the CAO shall report all acquisitions exceeding the Small Purchase Threshold to the Committee. The CAO shall also make available to the Committee any additional information as may be requested regarding the procurement and competitive process for all acquisitions.

IX. The CAO shall establish, develop, implement, and utilize such procedures as are necessary to ensure these Guidelines, and any amplifying instructions to them, are implemented in a fair, impartial, and consistent manner.

X. Examination of Records of Contractors. The CAO, acting through an authorized representative, may audit the records of a contractor or subcontractor.

XI. The CAO shall ensure that sufficient procedures are in place to assure that CAO-awarded contracts are adequately administered. Such procedures include, but are not limited to, monitoring contract performance, performing audits when so directed, and managing contract modifications.