

***Quotes and Bids and Proposals, Oh My!
(Important Similarities and Differences)***

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Instructor

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What will we accomplish during this presentation?

- A better understanding of what a quote is, what a bid is, what a proposal is—how they are similar and how they are different.
- A renewed commitment to conduct quotes, bids, proposals and the ensuing contract awards in an open, fair, reasonable and justified HUD-compliant manner.
- An ability to locate in the regulations what HUD wants—hence, a better understanding of HUD requirements.
- Solicitation documents that better meet the needs of the HA and the contractors (herein, contractor shall also mean vendor, supplier, contractor, consultant, etc.).
- As a result, improved relationships with our Board, our ED, our clients, and our contractors.
- An understanding of Gifford's Gospels.

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Gifford's Gospels

- No. 1: "If it ain't written, it don't exist.
- No. 2: "There are no coincidences in life—everything happens for a reason."
- No. 3: "Whatever we do must be open, fair, reasonable and justified."
- No. 4: "Contractors are not our friends—they are our partners."
- No. 5: "Nothing is free—there is a price to pay for everything."
- No. 6: "Be prepared—If something can go wrong, it will happen at the worst possible moment."
- No. 7: "Luck is where preparation and opportunity meet."
- No. 8: "He/she who writes the contract, the contract is in favor of."

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Herein we will make references to:

- 24 CFR §85.36 (or 2 CFR §200)
 - aka the Common Rule.
 - Hereinafter “§85.36” or “§200”.
 - Specific references herein within “{ }”.
- HUD Handbook 7460.8 REV 2:
 - 7460.8 issued by HUD to explain the above noted CFR’s in further detail.
 - Hereinafter “7460.8” or “[HPH:]”.
 - Specific references herein within “[]”.
- ❖ <Sample Forms developed by HAPA and HUD are available at no charge on procurementassistance.org>

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Within the Handbook’s or the CFR’s:

- Important!!!! Remember, therein: [HPH: 1.2]
 - “Shall” and “must” mean that an action or item is mandatory and is required by statute or regulation.
 - “Should” and “may” mean that the action or item serves to provide guidance and/or best practices but is not mandatory.
- !!!PLEASE NOTE-BEWARE!!!
- HUD has used the term “should” a number of times in the HPH and then in another part of the HPH uses the term “shall” or “must” in reference to the same issue—an auditor WILL most likely go with the stricter reference as the requirement.

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Relationship of local or State laws with Federal law:

- PHAs must comply with the stricter of Federal rules and State/local rules. [HPH: 1.5/13.1]
- States. (§85.36(a); §200.317)
 - “When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations.”
 - Therefore, one procurement policy only!

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Procurement Authority: Use of quotes, bids, and proposals must be listed within the HA . . .

- **Procurement Policy:** [HPH: 2.2]
 - Appendix 1 of 7460.8 REV 2 (corrected copy)
 - Combining Policy and Procedures—Not good!
 - ✓ Policy approved by Board of Commissioners.
 - ✓ Procedures approved by ED.
 - HUD approval not typically required
 - Includes stricter of requirements of Handbook 7460.8 REV 2, §85.36 and applicable local laws.
 - Know the difference: Policy—Procedure—Practice.
- ❖ <Sample Procurement Policy is available at no charge within the “Sample Documents” area of procurementassistance.org>

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Procurement Planning [HPH: 3.1]

- **Individual Procurement Plans (IPPs).**
 - Typically for larger procurements, but may also be used for quotes.
 - Establishes deadlines and milestones.
 - Checklist. [HPH: Appendix 2]
- ❖ <Sample Competitive Solicitation Checklist available at no charge within the “Sample Documents” area of procurementassistance.org>

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Documentation: Requirements and Recommendations. [HPH: 3.3] (§85.36(b)9; §200.318(i))

- “Sufficient to detail the significant history of each purchase.”
- In writing, in one clearly marked file.
- Contains all documents pertaining to the issue.
- Checklist.
- Records Retention: 3 years after final payment. (§85.36(i)(11); §200.326, Appendix II)
- Audit clause to be included in all solicitations. [HPH: 3.3.C] (Part 85.36(i)(11))
- ❖ <Sample Competitive Solicitation Log available at no charge within the “Sample Documents” area of procurementassistance.org>

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Four competitive solicitation methods provided for by HUD:

- Quotations for Small Purchases (QSP)
 - aka Quotes [HPH: Chapter 5] (§85.36(d)1; §200.320(b))
- Invitations For Bids (IFB)
 - aka Sealed Bids [HPH: Chapter 6] (§85.36(d)2; §200.320(c))
- Request For Proposals (RFP)
 - aka Competitive Proposals [HPH: Chapter 7] (§85.36(d)3; §200.320(d))
- Request For Qualifications (RFQ)
 - aka Qualifications-based Selection (QBS)
 - Subset of an RFP (hence it is a sub-section within HPH Chapter 7) [HPH: 7.3] (§85.36(d)(3)(v); §200.320(d)(5))

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HPH Chapter 5: Quotation for Small Purchases (QSP)

- General [HPH: 5.1]
 - "Simplified purchase procedures."
 - HUD says, "for the vast majority of a PHA's purchases" . . . but not necessarily.
- Small Purchase Dollar Limits [HPH: 5.2]
 - Purchases >\$2,000 and typically <\$100,000.
 - \$2,000 is a Micro Purchase (one quote only) maximum.
 - \$100,000 is a Small Purchase (@ least 3 quotes received). maximum—may be set lower by applicable State statute.

Gifford's Gospel: If it ain't written, it don't exist.

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HPH Chapter 5: QSP's (con'd)

- Competitive Requirements [HPH: 5.3] (§85.36(c)(1); §200.319(a))
 - [HPH 5.3.A] Small Purchases (>\$2,000): Must be competitive, in that a "PHA must solicit <AND RECEIVE, unless otherwise justified> at least 3 quotes."
 - [HPH 5.3.b] Micro Purchases (<\$2,000): May solicit one quote only if "price is reasonable."
 - [HPH 5.3.C] Prohibition Against Bid Splitting: Must not break down purchases into lower thresholds (Micro or Small) to avoid the requirements of the larger threshold—this means, aggregate all awards to each contractor/contractor or in a commodity/service area and none shall exceed:
 - ✓ \$2,000 without a quote; and
 - ✓ \$100,000 (or lower amount if set by State law) without a formal solicitation;
 - ✓ Encourage WMBE's: HA may break awards into lots.

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HPH Chapter 5: QSP's (con'd)

➤ **Methods of Solicitation - Quotations for Small Purchases (QSP) may be obtained by:** [HPH: 5.4]

- Mail;
- In-person;
- Fax;
- Orally (recorded by HA in writing);
- Telephone (recorded by HA in writing);
- Internet.

- ❖ <Sample Conditions to Quote—Construction and available at no charge within the “Sample Competitive Solicitations ” area of procurementassistance.org>

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HPH Chapter 5: QSP's (con'd)

➤ **Quotation Evaluation.** [HPH: 5.5][§85.36(f);][§200.323]

- Price Reasonableness.
 - ✓ Determine “fair and reasonable.”
 - ✓ Typically Price Analysis adequate.
 - ✓ Micro Purchases: Signature of CO verifies.
 - ✓ Small Purchases: Write price analysis required.
 - ✓ Other Factors: I STRONGLY DO NOT recommend!!!!
 - ✓ Contractor Responsibility: Signature of CO verifies.
 - ✓ Documentation – Micro Purchases: minimum required, but in writing.
 - ✓ Documentation – Small Purchases: Keep a copy of everything in a file.

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HPH Chapter 5: QSP's (con'd)

➤ **Petty Cash Purchases.** [HPH: 5.6]

- For very small purchases only.
- Purchases must not be in violation of HPH 5.3.C.

➤ **Procurement Cards.** [HPH: 5.7]

- Can be an effective tool.
- Purchases must not be in violation of HPH 5.3.C.
- Must have written controls.

➤ **Bonding Requirements** [HPH: 5.8]

- Not generally required (unless construction-related and local law requires bonds less than \$100,000).

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HPH Chapter 5: QSP's (con'd)

- **Standard Forms/Mandatory Contract Clauses.** [HPH: 5.10]
 - Small Purchases, Non-construction: Table 5.1.
 - Small Purchases, Non-construction, with Maintenance work: Table 5.1; form HUD-5370-C, Section II; if applicable, appropriate Maintenance Wage Rate Determination.
 - Small Purchases, Construction: form HUD-5370-EZ; appropriate wage decision; perhaps bonds.
- ❖ **<Sample HUD Table 5.1 and Sample form-HUD 5370-EZ available at no charge within the "Documents" area of procurementassistance.org >**
- **Acceptable Methods of Incorporation.** [HPH: 5.10.D]
 - Physically attach the forms.
 - Incorporate the exact text into HA documents.
 - Incorporate the forms by reference into the HA documents.

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HPH Chapter 6: Invitation For Bids (IFB)

- **General.** [HPH: 6.1]
 - HUD: Chapter only applies to procurements > \$100,000.
 - ✓ However, is appropriate to use ANYTIME the HA feels a formal solicitation is appropriate.
 - Recommend use for any formal (advertised) solicitation.
- **Description.** [HPH: 6.2]
 - Typically results in firm fixed-price contract (lump sum or unit price).
 - Awarded to lowest cost, responsive and responsible.
 - Preferred method to procure construction, supply, non-complex service contracts.

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HPH Chapter 7: Request For Proposals (RFP)

- **General.** [HPH: 7.1]
 - HUD: Chapter only applies to procurements > \$100,000, though:
 - ✓ Is appropriate to use ANYTIME the HA feels a formal solicitation is appropriate.
 - ✓ HA may implement any of the procedures into a small purchase.
- **Description.**
 - Awarded to top-rated proposer, responsive and responsible, taking into consideration cost and other factors. [HPH: 7.1.A]
 - Preferred method to procure professional services and some non-professional services, but not construction [per HPH: 7.2.B].
 - NOTE: An RFQ is an RFP except that cost is not received or analyzed until AFTER a top-rated proposer is chosen—then cost is negotiated. [HPH: 7.1]

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Comparison of IFB's and RFP's

IFB's	RFP's/RFQ's
Typically for construction, supply, equipment, and non-complex services contracts [HPH: 6.2]	Typically for professional services and some non-professional services [HPH: 7.1.B.2] NOT typically for construction [HPH: 7.2.B]
Formal process if advertised when value >\$100,000 [HPH: 6.5.B]	Formal process if advertised when value >\$100,000 [HPH: 7.1.F]
Bonds Required?: Only for construction—NOT typically recommended for non-construction [HPH: 6.11]	Bonds Required?: Only for construction—NOT typically recommended for non-construction [HPH: 7.1.D]

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Comparison of IFB's and RFP's

IFB's	RFP's/RFQ's
Typical specifications leans more Design- or Brand Name-based [HPH: 9.3.B.2/3]	Typical specifications leans more Performance-based [HPH: 9.3.B.1]
Suggested Format: [HPH: 6.5.A] (1) IFB Document (2) Form of Bid (3) Profile of Firm Form (4) Section 3 Form (5) Instructions to Bidders (6) Sample Contract (7) Mandatory HUD Forms (see following frames 27-29)	Suggested Format: [HPH: 7.2] (1) RFP Document (2) Form of Proposal (3) Profile of Firm Form (4) Section 3 Form (5) Instructions to Proposers (6) Sample Contract (7) Mandatory HUD Forms (see following frames 27-29)

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Comparison of IFB's and RFP's

IFB's	RFP's/RFQ's
Pre-bid Conference: Can be very helpful, but HUD strongly recommends NOT mandatory [HPH: 6.7]	Pre-proposal Conference: Can be very helpful, but HUD strongly recommends NOT mandatory [HPH: 7.2.G]
Amendments (aka Addendums): (1) Issued in writing (2) Might require time extension (3) I DO NOT recommend issuing after submittal deadline [HPH: 6.6]	Amendments (aka Addendums): (1) Issued in writing (2) Might require time extension (3) I DO NOT recommend issuing after submittal deadline [HPH: 7.2.F]

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Comparison of IFB's and RFP's

IFB's	RFP's/RFP's
<p>Prior to the Submittal Deadline:</p> <p>(1) Except for construction-related solicitations, DO NOT disclose how many firms have garnered the documents or how many bids have been received.</p> <p>(2) Only receive bids that are sealed. [HPH: 6.9.A]</p> <p>(3) Store any bids received securely. [HPH: 6.9.B]</p> <p>(4) Must be submitted prior to the published deadline. [HPH: 6.9.A]</p>	<p>Prior to the Submittal Deadline:</p> <p>(1) Except for construction-related solicitations, DO NOT disclose how many firms have garnered the documents or how many proposals have been received. [HPH: 7.2.J]</p> <p>(2) Only receive proposals that are sealed. [HPH: 7.2.H]</p> <p>(3) Store any proposals received securely. [HPH: 7.2.H]</p> <p>(4) Must be submitted prior to the published deadline. [HPH: 7.2.I]</p>

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Comparison of IFB's and RFP's

IFB's	RFP's/RFP's
<p>Opening Bids: Publicly, at (NOT after) the published submittal deadline (NOTE: Recommend read only firm and amount(s) bid, nothing else!) [HPH: 6.9]</p> <p>Evaluation Factors: Lowest Cost, Responsive and Responsible [HPH: 6.12]</p>	<p>Opening Proposals: "In confidence" (privately—no public in attendance), after the published submittal deadline [HPH: 7.2.H]</p> <p>Evaluation Factors: Cost and Qualifications, Responsive and Responsible [HPH: 7.2.D]</p> <p>** NOTE: Cost NOT a factor for RFP's [HPH: 7.3.A]</p>

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Comparison of IFB's and RFP's

IFB's	RFP's/RFP's
<p>Evaluation of Responsiveness and Responsibility:</p> <p>(1) May be conducted by one or more persons</p> <p>(2) Recommend conducted in private, NOT in publicly (NOT at public bid opening)</p> <p>(3) HA reserves the right to waive informalities [HPH: 6.10/11/12]</p>	<p>Evaluation of Responsiveness and Responsibility:</p> <p>(1) Responsiveness may be conducted by one person</p> <p>(2) Evaluation of proposal evaluation factors ALWAYS conducted in private by an evaluation committee, NOT in public</p> <p>(3) HA reserves the right to waive informalities [HPH: 7.2.J-P]</p>

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Comparison of IFB's and RFP's

IFB's	RFP's/RFP's
Evaluation of Cost: (1) Conduct Cost or Price Analysis [HPH: 10.3; Appendix 12]	Evaluation of Cost: (1) Objective—to assign points, NOT by Committee but by skilled individual (2) Conduct Cost and/or Price Analysis [HPH: 10.3; Appendix 12] (3) **RFP: Cost is NOT a point factor—negotiate cost with top-rated proposer considering technical factors [HPH: 7.3.B]
HA must check HUD LDP and Federal EPLS. [HPH: 10.2.H]	HA must check HUD LDP and Federal EPLS. [HPH: 10.2.H]

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Comparison of IFB's and RFP's

IFB's	RFP's/RFP's
Award Factors: To the responsive and responsible bidder with the Lowest Cost Submitted [HPH: 6.12]	Award Factors: To the top-rated responsive and responsible proposer, "top-rated" considering cost (objective) and other factors (typically subjective) [HPH: 6.12]
Section 3: HA's are required to offer a Section 3 preference to all bidders (except for bids for commodities/equipment*), but a Section 3 response is voluntary on the part of bidders (however, Section 3 shall, "to the greatest extent feasible," be a part of every contract award, except as noted above*). [HPH: 15.2]	Section 3: HA's are required to offer a Section 3 preference to all proposers, but a Section 3 response is voluntary on the part of proposers (however, Section 3 shall, "to the greatest extent feasible," be a part of every such contract award). [HPH: 15.2]

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Comparison of IFB's and RFP's

IFB's	RFP's/RFP's
Contract Award: [HPH: 10.1] (1) Typically full narrative format, but can be a PO. (2) Must have appropriate the 5370 form(s) attached [HPH: 10.5] (3) Gifford's Gospel: "He/she who writes the contract, the contract is in favor of;" so, DO NOT ever execute a contractor's contract form—only the HA contract form.	Contract Award: [HPH: 10.1] (1) Typically full narrative format, but can be a PO. (2) Must have appropriate 5370 form(s) attached [HPH: 10.5] (3) Gifford's Gospel: "He/she who writes the contract, the contract is in favor of;" so, DO NOT ever execute a contractor's contract form—only the HA contract form. (4) **For A/E awards, only contract form HUD-51915 [HPH: 7.3.F]

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Mandatory (HUD-required) forms [HPH: 6.5.A; 7.2.B]

- Construction-related formal Solicitations (IFB/RFP/RFQ):
 - ✓ form HUD-5369 (10/2007), *Instructions to Bidders for Contracts, Public and Indian Housing Programs*;
 - ✓ form HUD-5369-A (11/92), *Representations, Certifications, and Other Statements of Bidders, Public and Indian Housing Programs* (NOTE: Must be fully completed and submitted as a part of the bid submittal);
 - ✓ form HUD-5370 (1/2014), *General Conditions for Construction Contracts – Public Housing Programs*.

❖ <The above sample forms are available from Gifford at no charge at gifford52@yahoo.com >

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Mandatory (HUD-required) forms [HPH: 6.5.A; 7.2.B]

- Non-construction-related formal Solicitations (IFB/RFP/RFQ), with Maintenance Work:
 - ✓ form HUD-5369-B (8/93), *Instructions to Offerors, Non-Construction*;
 - ✓ form HUD-5369-C (8/93), *Certifications and Representations of Offerors, Non-Construction Contracts* (NOTE: Must be fully completed and submitted as a part of the bid submittal);
 - ✓ form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I – (With or without Maintenance Work)*;
 - ✓ form HUD-5370-C (1/2014), *General Conditions for Non-Construction Contracts, Section II – (With Maintenance Work)*.

❖ <The above sample forms are available from Gifford at no charge at gifford52@yahoo.com >

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Mandatory (HUD-required) forms [HPH: 6.5.A; 7.2.B]

- Non-construction-related formal Solicitation (IFB/RFP/RFQ), without Maintenance Work:
 - ✓ form HUD-5369-B (8/93), *Instructions to Offerors, Non-Construction*;
 - ✓ form HUD-5369-C (8/93), *Certifications and Representations of Offerors, Non-Construction Contracts* (NOTE: Must be fully completed and submitted as a part of the bid submittal);
 - ✓ form HUD-5370-C (01/2014), *General Conditions for Non-Construction Contracts, Section I – (With or without Maintenance Work)*.

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Canceling a Solicitation

[HPH: 6.8; 7.2.F.4-6]

- Solicitations must not be used to “gauge the marketplace”—does not foster public confidence.
- Good reasons to cancel:
 - Lowest bid significantly exceeds the HA’s budget.
 - Scope of work or specifications are found to be ambiguous or flawed by the submission of wildly different bids or offer prices.
- If canceled, be sure to fully document the justification for doing so to the file. (§85.36(b)(9); §200.318(l))

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Miscellaneous Additional Related Requirements:

- Debriefing Offerors [HPH: 7.2.S.3]
- Protests [HPH: 7.2.T; 10.4]
- Geographic Preferences. [HPH: 13.2.A]
 - HA’s must NOT require, consider or give preference to any firm simply because it is located in the local area (e.g. city; county; state; etc.) that the HA is based or located. Accordingly, it is NOT appropriate for a HA Commissioner to put pressure on HA staff to do more business with local firms.
- State Prevailing Wage Requirements. [HPH: 13.2.B]
 - If there is ANY Federal (HUD) monies in a construction project, then Davis-Bacon wage rates apply, no matter if State prevailing wage rates are higher or lower.

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**I hope this information is of a
help!**

Be sure to visit procurementassistance.org to obtain, at no charge, many competitive solicitation (QSP’s; IFB; RFP’s; RFQ’s) documents.

Thank you!

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