

PROCUREMENT POLICES AND REGULATIONS TASK FORCE

MEETING MINUTES

March 12, 2015 – 4:00 p.m.

5th Floor Council Conference Room, Council Office Building

Members Present

Wayne Cobb	David Robbins, Chair
Tom Creamer	Daniel Parra
Eppie Hankins	Jan Zappold
Buddy Henley	
Linda Moore	

County Staff Present:

Marie Jean-Paul, County Council
Pam Jones, Chief, Office of Procurement, DGS
Linda Price, County Council

I. Call to Order and Approval of Minutes

The meeting was called to order by Task Force Chair Robbins at 4:00 p.m. The minutes from the February 12, 2015 meeting were unanimously approved by all Task Force members present.

II. Updates

Chair Robbins recapped items transmitted through email due to snow delays. This included a Scope of Work prepared by County Staff and a straw poll of procurement issues and focus areas that were submitted by Task Force members. A memo grouping straw poll topics into major categories was distributed by Chair Robbins (Attachment 1). Mr. Robbins suggests the group review the straw poll areas at the start of each meeting to ensure they are on track.

III. Overview of County Procurement Practices

Ms. Jones presented an overview of the Office of Procurement and the County procurement process. Presentation topics included an overview of the Office of Procurement, including the Procurement Operations and Procurement Services sections, using departments, and a walk-through of the procurement process.

- Procurement Operations Section
 - In FY14 there were \$930 million in procurements.
 - There are 16 Procurement Specialists managing 2,000 contracts (around 159 contracts per Specialist).
 - Procurement Staff review Maryland Public Information Act (MPIA) requests and protests, with around 100 requests each fiscal year.
 - Procurement stakeholders include the Office of Procurement and the Office of Business Relations and Compliance (OBRC), businesses, using departments, the Office of Management and Budget, Division of Risk Management, and the County Attorney's Office.
 - Compliance programs are embedded in the procurement process.

- Procurement Services Section
 - Responsibilities include budget, human resources, escrow deposits, scanning and archiving documents, training, tracking, national certifications, customer service for using departments, and implementation of topic specific contract administrator forums.
- Using Departments
 - Using departments have Contract Administrators (200+ Countywide) who determine projects and purchases in a given year, draft scope of work/specifications, review invoices, and process payments.
- Procurement Process
 - There are multiple procurement methods. Highlighted methods include Request for Proposal (RFP)/Invitation For Bid (IFB)/Informal's.
 - Dollar thresholds assigned to RFP/IFB above \$100,000
 - Informal Procurements are between \$10,000-\$100,000
 - The solicitation template is around 39 pages. Standard sections include Legal notices, Table of Contents, Scope of Services, Performance Period, Method of Award, Contract Administrator, Special Terms and Conditions.
 - Length of process and benchmark comparisons are indicated below starting from the completion of the solicitation by using department through execution of contract.

	IFB	RFP	Construction	Compliance Programs
Montgomery County	5 months	9 months	4 months	MFD, Living Wage, LSBRP
MD State Dept. of Transportation	6 months	9 months*	6 months	MFD, Living Wage, LSBRP
Fairfax County	3.5 months	7 months	No construction reported separately	No compliance programs
Anne Arundel	4 months	8-12 months	18 months	No compliance programs
Frederick County	3 months	4 months (partial year numbers)	No data	No compliance programs
M-NCPPC	Estimated 2 months	Estimated 4 months, depending on staffing and negotiations	No construction reported separately	No compliance programs

* includes architecture/engineering, the expression of interest and inquiry phase takes 18-24 months

- The two periods of silence in procurement were discussed, including initial review of proposals and negotiation periods.
- Workflow chart for procurement process was reviewed (Attachment 2).
- Lengthiest parts of the process include QSC review and contract development and negotiation.
- Question and Answer session – the following points were made or clarified following the Procurement Overview Presentation.

- Chair Robbins asked about moving the negotiation phase forward in the process and if any benchmarking had been completed to look at the location of the negotiation phase in the procurement process. Ms. Jones replied that negotiation could be done earlier in certain kinds of RFPs. She added that the negotiation phase was moved up in 2010 when the regulations were changed. Negotiation had been done after QSC review and public posting. These changes to the Procurement Regulations were included in the County Register for public comment and feedback was solicited from using departments. Ms. Jones added that COG, MPP, and NIGP support where the negotiation phase is currently located in the process.
- Ms. Jones clarified that it is highly encouraged that contractors submit their MFD subcontractor plans early in the process. However, the plan is not required with the proposal. Additionally, there is no penalty to businesses if they do complete this early in the process. Ms. Jones will check with OBRC to see if there is any data on how many offerors submit their plans early in the process.
- Ms. Moore asked if there have been any comments or concerns related to bid shopping. Ms. Jones has not heard of any issues of this nature, but will speak with OBRC.
- Ms. Jones addressed the issue of prompt payments and recommended that businesses under subcontracting plan call OBRC to look into issues with payments. Although there is no contractual relationship between the County and subcontractors, the County will investigate issues if they get a request.
- Ms. Jones clarified the process for contractors that are not meeting contract terms. Contractors would get a pre-cure notice or issuance of cure notice. If issues are not resolved the contract would be terminated, which would be considered for future contracts to see if there is a history of non-compliance. If compliance programs are violated, there would be an audit/investigation.
- Mr. Parra inquired on education and feedback opportunities for unsuccessful offerors and bidders. Debriefing opportunities are outlined in the unsuccessful offeror or bidder letters that are sent out.
- Mr. Cobb asked if a benchmark study had been done on Living Wage and MFD compliance programs, which could potentially increase what the County pays. Ms. Jones does not know of a formal study, but when legislation is introduced cost impacts are factored into the economic statement.
- Ms. Jones clarified that there are 2,000 active contracts, this number does not represent the number of new contracts each year. There is no statistic on lack of response for IFBs/RFPs. On average there are 3-4 responses on these solicitations.

IV. Future Meeting Planning and Discussion

The following discussion points were made:

- Chair Robbins opened the discussion by reiterating that the group examine what is currently not working in the process and concentrate on what can be fixed and opportunities for improvements.
- Chair Robbins suggested pairing listening and working sessions to begin to develop the Task Force report.

- The Task Force decided to postpone working on the report until they have had time to learn more about the County procurement process.
- Ms. Price will arrange appropriate using departments to speak at future meetings.
- The Task Force would also like to hear from businesses in future meetings.
- Chair Robbins encouraged Task Force members to talk to businesses and invite them to attend future meetings and participate in the discussions.
- Due to snow delays, the meeting schedule was adjusted with March 26 selected as the next meeting date.
- Ms. Price will let Task Force members know when Griffin & Strong discussion will take place with the Minority Owned and Local Small Business Task Force. This briefing is scheduled for April 1 at 5:30 p.m.

V. Public Comment

There were no comments from public meeting participants.

The meeting adjourned at 5:53 p.m.

Attachment 1

MEMORANDUM

TO: Members, Procurement Policies and Regulations Task Force
FROM: David Robbins, Chair
DATE: March 12, 2015
SUBJECT: Mission, Summary of Straw Poll, and Status of Effort

Dear Task Force Colleagues,

Thank you for weathering the snow and for rearranging plans to meet today. And thank you for the work you have done to review the binder of County materials, and generate your initial "Straw Poll" of areas of concern. By this Memo I am asking your concurrence to summarize and keep track of our straw poll items of concern in County Procurement to make sure we handle these issues as a Task Force. Our Straw Poll choices are informed by our background reading of materials supplied by the County and the Scope of Work document delivered to us.

SUMMARY OF STRAW POLL ITEMS: Quickly grouping the straw poll responses, here are our concerns:

- Need for the County to follow rules for procurement, and perhaps better express those rules to avoid perception they're not being followed (5 related comments)
- Need for easier processes to welcome competition, this includes increasing small business opportunities and outreach needs (5 related comments)
- Concerns about restricting competition either overtly by inviting few to bid or indirectly through onerous procedures, including issues relating to micro/small purchase process, need for prompt payment to encourage small businesses, numbers of emergency procurements without competition, and general contract fairness (5 related comments)
- Need for adequate staffing, training and support for County staff to conduct their missions, procure effectively, and uniformly follow the rules (5 related comments)

Comments receiving one mention each:

- Concern about liquidated damages as penalties
- Questioning the benefit of social policy requirements if the beneficiaries live outside the County (e.g., health insurance requirements that end up ensuring residents of other Counties)
- Protest process concerns

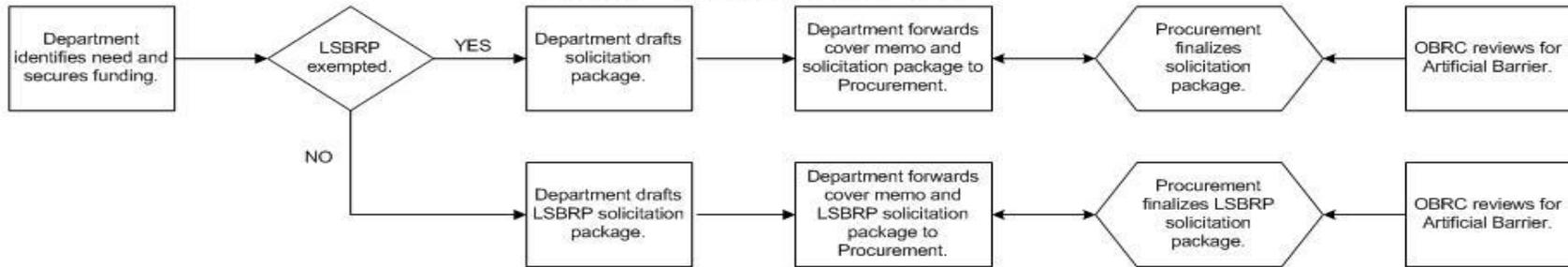
- “Verbal teaming agreement” concerns

Status of Effort: Today, we will hear from the County concerning how their processes work, and what their friction points are. Suggest we use our list, and items that arise today, to decide who we need to hear from in upcoming meetings to identify additional concerns, identify problems, and begin to fashion possible solutions in line with our Scope of Work.

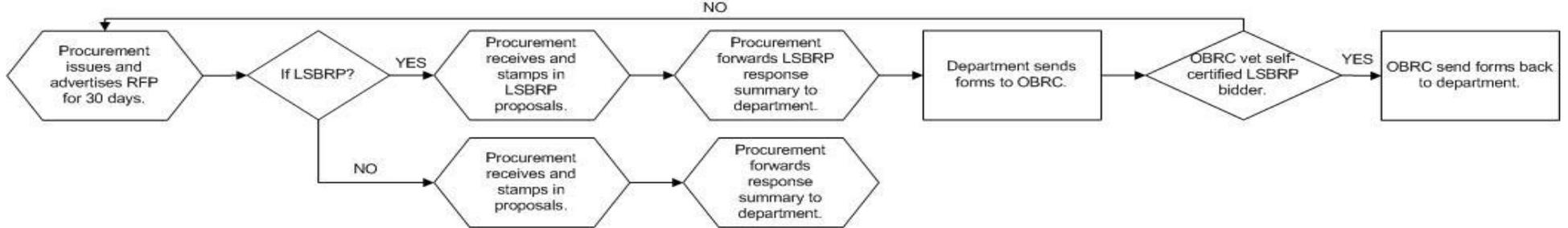
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Attachment 2

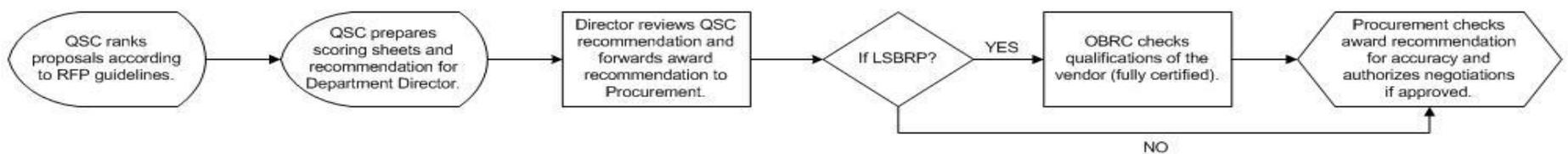
Phase 1 – Solicitation Development



Phase 2 – Solicitation and Advertising



Phase 3 – Vendor Evaluation and Selection



Phase 4 – Contract Negotiation and Execution



Updated June 5, 2012