

State of California
Department of Community Services and Development

LOW-INCOME WEATHERIZATION PROGRAM (LIWP)

PROCUREMENT POLICY

General

Except as otherwise provided herein, the procurement of goods, services and information technology by the Department of Community Services and Development (CSD), in connection with the Low-Income Weatherization Program, funded by California Climate Investments, shall be conducted in compliance with the Public Contract Code (PCC), the State Contracting Manual (SCM), and all Low-Income Weatherization Program Guidelines, to include Fiscal Year 2015-16 Appropriation Procurements: Single-Family Energy Efficiency, Single-Family Solar Photovoltaics, Section V.e.

Procurement of Regional Administrators (RAs)

The services of RAs shall be procured under local assistance/subvention agreements and in compliance with SCM § 3.17, which are exempt from Department of General Services (DGS) review, in accordance with published opinions of the Attorney General of the State of California, as referenced in SCM § 4.06. CSD shall, in developing and implementing a solicitation, invitation for bid, or request for proposal (RFP) for RA contracts, ensure a transparent, fair and competitive process with full accountability, taking such steps as are reasonably necessary to avoid conflicts of interest and unfair advantage.

While the RFP process shall incorporate a price or cost component, contracts are not necessarily awarded to the lowest bidder. Experience, demonstrated productive capacity and a proven ability to attain program objectives in a cost-effective manner shall be considered in the contractor selection process. Adequate cost control mechanisms and processes for ensuring the necessity and reasonableness of costs incurred shall be incorporated into contract requirements.

The Department shall in the RFP documentation set forth clear and detailed selection criteria and scoring mechanisms used to make the contractor selection. The decision of the Department shall be posted in the official Notice of Intent to Award, as provided in

the solicitation. All documentation in the Department's procurement file, including proposals submitted, is public information and shall be accessible to the public in accordance with State law.

Re-procurement and Negotiations

In the event CSD determines that no proposer has submitted a proposal sufficient to enter into a contract that meets the requirements of the official Program Guidelines, the program objectives and purposes, or that is sufficiently cost effective to meet the needs, requirement and interests of the State, CSD may, at its sole option, reject all bids, amend and reissue the solicitation. In the alternative, CSD may enter into negotiation with the qualified, conforming bidder that received the highest score in the procurement and agree to such changes and amendments to the proposal as meets the State's requirements, which amended proposal shall form the basis for a subsequent contract. In the event, two or more proposals are inadequate but closely scored, CSD may, at its sole option, enter into negotiations with multiple proposers in order to obtain the most favorable agreement for the State. At the conclusion of any successful negotiation undertaken, CSD shall issue a Notice of Intent to Award.

Conflicts of Interest

Because of the Department's many relationships with industry consultants, previous and existing contractors, CSD is sensitive to potential conflicts of interest which may impact the fairness of the solicitation, the procurement process and subsequent contract implementation. In the interest of transparency and to avoid undue advantage to some potential proposers or sub-proposers, the Department has established special conflict of interest procedures and requirements as set forth in the attachment to this policy, titled "Conflicts of Interest Guidelines." All proposers and their affiliated entities should be familiar with the policy before submitting any proposal.

Award Protest Process

Proposers may contest an intent to award issued by the Department by submitting a protest letter, which must be received by the procurement representative, referenced in the solicitation, no later than five (5) working days (excluding the first day and including the last day) from the date of the posting of Notice of Intent to Award. The intent to protest letter may be delivered by the postal service (United States Post Office) by

delivery service, Federal Express, United Postal Service, etc.), hand delivered by the protesting Proposer, faxed, or sent by electronic mail, and must bear the name and an authorized signature of the protesting Proposer.

Within ten (10) working days from the date Department receives the Intent to protest letter, the protesting Proposer must file with the Department a letter of protest detailing the grounds for the protest. The only acceptable delivery method for the Letter of Protest is by the postal service (United States Post Office) or by delivery service, (Federal Express, United Postal Service, etc.) and must bear the name and authorized signature of the protestor.

The only grounds sufficient to sustain a protest are that, had the Department correctly applied the prescribed evaluation rating standards in the solicitation or RFP, or if Department had followed the evaluation and scoring methods in the solicitation or RFP, the protesting Proposer would have prevailed. The Letter of Protest must identify specific information in the Proposal that the protesting Proposer believes was overlooked or misinterpreted. The Letter of Protest may not provide any additional information that was not included in the original Proposal.

If a Letter of Protest is filed, the contract shall not be awarded until the Director of the Department has reviewed and evaluated the protest. The Director shall, in a timely manner, determine whether the Notice of Intent to Award shall be sustained as issued, or if it should be amended. Notice of the decision shall be posted.

If the notice is amended, resulting in a change in the awardee, the original awardee must be notified and given, if requested, 10 working days, as described above, to show that the Department erred in amending the award. In the event of such secondary protest, the Director shall render a decision, which shall be considered final upon issuance.

ATTACHMENT
CONFLICT OF INTEREST GUIDELINES

Purpose

These guidelines are issued by the Department of Community Services and Development (CSD) to prevent, avoid or mitigate potential conflicts of interest as defined in this document, in connection with the Low-Income Weatherization Program (LIWP), funded by California Climate Investments. The guidelines shall be used in the course of LIWP procurements to provide Proposers, sub-Proposers and affiliated parties, as well as former and existing CSD consultants and contractors guidance on the Department's conflict of interest policy, requirements and procedures.

Policy

Disqualification: Former or existing CSD consultants and contractors shall be deemed to have disqualifying conflicts of interest and may not be issued contracts by CSD or subcontracts by a prime contractor/Proposer consequent a LIWP solicitation or procurement, if the CSD consultant or contractor had decision-making authority, or significant substantive influence over Departmental policy decisions concerning LIWP program design, program requirements, service delivery, and/or the preparation and implementation of requests for proposal (RFPs), project oversight and contract compliance, to include quality assurance, project inspections and the like.

CSD consultants that have previously provided, or presently provide, technical information and/or analyses or industry data studies and reports in support of CSD decision-makers, but that have no decision-making authority or significant recommendatory influence over decisions, shall not be disqualified from participation in any LIWP solicitation or procurement. Similarly, CSD contractors that have participated in program reviews, assessments, workshops, surveys and other evaluative activities in connection with LIWP that could impact decisions of the type referenced above, but that have had no decision-making authority or significant recommendatory influence over such decisions, shall not be disqualified from participation in any LIWP solicitation or procurement.

In all cases, the critical consideration for disqualification is whether the CSD consultant or contractor, by virtue of a past or present relationship with CSD, has gained an unfair advantage, vis-à-vis other Proposers or participants in any LIWP solicitation or procurement. Experience working with CSD, in and of itself, shall not be the basis for a determination of disqualification.

Requirements

Any past or present CSD consultant or contractor who participates in a LIWP solicitation or procurement as a Proposer, sub-Proposer or sub-contractor of a prime contractor/ Proposer must submit a conflict of interest disclosure statement with any proposal or bid in connection with a LIWP solicitation or procurement in which the consultant or contractor intends to participate. The Proposer is responsible for ensuring that all required disclosure statements of the Proposer's affiliated entities are included in each proposal or bid submitted. The disclosure statement shall contain the following information:

- Name of declarant
- Name of Proposer/ prime contractor
- Title of solicitation(s)/procurement(s) involved
- Nature of the declarant's relationship with CSD
- Timeframe (dates)
- Brief description of declarant's legal relationship/activities in connection with CSD and/or services rendered to CSD.
- Basis or rationale for determination that declarant's relationship with CSD is **not** disqualifying, including circumstances or measures undertaken to avoid, neutralize or mitigate potential conflicts of interest, if any.
- Signature of responsible official of declarant and date signed.

All conflict of interest disclosure statements received by CSD shall be maintained in the procurement file, posted in the bidder's library upon receipt, or otherwise made available for public inspection.

Post-award Requirements

After an award is made, CSD consultants and contractors that enter into contracts or otherwise affiliate with a successful Proposer/ prime contractor in connection with a completed LIWP solicitation or procurement must submit a conflict of interest disclosure statement to CSD, upon entering into such affiliation.

Enforcement

The failure of any Proposer, sub-Proposer and/or subcontractor to comply with these guidelines may constitute grounds for disqualification or contract termination.