

# FEDERAL UTILITY PARTNERSHIP WORKING GROUP SEMINAR

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Savannah, Georgia

## UESC Best Practices

Hosted by:



# Obtaining the Best Deal for the Government

- **FAR 6.302-5, *Authorized or required by statute and 10 USC 2304 (c)(5)***
  - Full and open competition is not needed when statute expressly authorizes or requires acquisition be made from a specified source or through another agency (i.e., its serving utility)
- **FAR 16.505(b) *Orders under multiple-award contracts***
  - Requires agencies to provide a fair opportunity to be considered to all eligible contractors
  - Contracting officer should keep submission requirements to a minimum, using streamlined procedures, including oral presentations, tailor the procedure to each acquisition, and consider the utility company's overhead and profit and that of any ESCO the utility may be considering

In the absence of adequate competition (i.e. only one supplier, one bidder), the Contracting Officer will require greater price detail

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- **FAR 52.244-5, *Competition in subcontracting***
  - ECM contractors shall be competitively selected to the maximum practical extent consistent with the objectives and requirements of the contract
  
- **GSA Areawide Contract Article 15. *Small Business Subcontracting Plan***
  - Utilities with GSA Areawide Contracts are required to submit a small business subcontracting plan to GSA annually

# Obtaining the Best Deal for the Government

- **48 CFR 9.404 – *List of Parties Excluded from Federal Procurement and Nonprocurement Programs***
  - Utility should verify the supplier is not barred from entering into Government contracts
  
- **48 CFR 9903.201-1 CAS**
  - UESCs are exempt from Cost Accounting Standards since the exemption is applicable to firm-fixed price contracts and subcontracts awarded on the basis of adequate price competition

# Performance Verification

- **EISA 2007, codified as 42 USC 8253 (f)(5)(B)**
  - for each implemented measure, each energy manager shall ensure a plan for appropriate operations, maintenance and repair of the equipment is in place at acceptance and is followed
  - All facilities are require to have in place an O&M plan encompassing life of contract management for implemented projects. This is for all implemented measures regardless of the method used for installing them.
  
- **Performance Assurance Plans**
  - The Office of Management and Budget (OMB) requires:
    - Performance assurance or energy savings guarantees
    - Measurement and verification of savings through commissioning or retrocommissioning
    - Competition or alternatives analysis

# Performance Verification

- **Minimal Recommendations for Performance Assurance**

- Start-up performance verification (based on measured data)
- Performance verification at the end of the warranty period( based on measured data)
- O&M training
- Provision of continuing training throughout contract period
- Period inspections and verification of appropriate O&M performance
- Performance discrepancy resolution –
  - Language from Performance Assurance Template: *If activities described above indicates that equipment is not performing as designed, or being properly operated and maintained, a report will be provided to the Customer informing what corrective actions are needed.*