

## Budget:

1. Agencies feel like the timeline to get the budget turned in is very tight. I believe you have addressed these concerns in your email today, but we wanted to ask if a very simplified budget could be submitted for now with the details to follow. Again, I think your direction provided today addresses this. So to confirm, we need to submit a best guess budget right now with the understanding that it is a best guess at this point in time and there will be flexibility to make needed adjustments and added detail as we get that information. *Yes, a generic budget is what is intended. OJA has always stated that if you cannot make the March 1<sup>st</sup> deadline to just shoot us an email explaining such. The deadline is for the benefit of entities that have projects ready to go. The projects will take time, but no payments can be made nor will the timeline for the projects to begin be approved until the contract is in place. The contract reads that *the contract shall become effective from the latter of January 12, 2023 or the date of execution and shall terminate at the close of June 30, 2026, or when all contractual terms have been met, whichever occurs first. Work done before or after the effective date of the Contract is at the Contractor's risk. Keep in mind that the contract date will vary from entity to entity based upon when their budgets are submitted and approved. Their contract will not be sent out for signature until after budgets have been received and approved. OJA Procurement will send those out via Adobe sign after documents have been requested as previously stated. Keep in mind that the Contract period for an entity will not begin until the latter date of when their contract is signed.**

## BIDS:

1. It was mentioned in one of the meetings that we had to get 10 bids, or at least attempt to get 10. From your last email, it appears that we are only expected to get 3 bids. Could you please confirm this. *OJA, Kevin Clagg, specifically, stated in those meetings that we would get back to folks with information after we confirmed a few things regarding the bid process. We sent out a revised Attachment A prior to my last email that attempted to explain that process. My last email was an attempt to clarify the difference between the procurement rules for goods and the procurement rules for construction. I cannot confirm for all that it will only be 3 bids instead of 10 because it will depend on the projects and how they are set up but the assumption is that the 3 bid necessity will exist if the projects are construction but if purchasing items directly then the 10 bids may apply depending on dollar threshold.*
2. If we are unable to get the total number of bids after taking necessary steps on our end (publicizing, asking providers, etc) will we be allowed to go ahead and award a bid. *During those meetings, Kevin Clagg stated that a no response bid can be counted and documented. Ten responsive bids are not required. Contract states on the revised Attachment A on page 5 *What to do if you cannot find three Bidders: In the event the Contractor cannot obtain three bids, the Contractor must document the efforts and reasons thereof. If a bidder declines to furnish a bid, their "no-bid" statement is acceptable and will count as a response. If only a single bidder furnishes a bid, the Contractor should document that reasonable efforts have been made. Photocopies of business directories showing contractors in that area are helpful, along with a telephone log of calls made and responses from the companies. If the Contractor cannot find any suitable vendors, contact OJA for assistance. The same reasonable efforts and "no-bid" statement is allowed if needing to obtain 10 bids.**
3. Who/what determines the lowest qualified bid? Do we use our own processes to make that determination (how much freedom do we have to throw out a low bid that we feel does not meet minimum qualifications). *One cannot throw out any bids, but one can*

justify for construction bids why the lowest bid was not selected. If the justification is not sufficient, it will be questioned. See page 5 of the revised Attachment A which has this language in it: *Justification for Award if not to Lowest Bidder (how did you determine lowest responsible?)*

4. Are we required to get bids before awarding a contract with a general contractor or a general management contractor/firm? If so, is that number 10 or 3? Depends on if that management contractor/firm holds the applicable professional license for the professional services you are needing no bid is required; see revised Attachment A on page 2 and 3. If they do not hold the license then get 3 bids.
5. Once a general contractor/construction management firm has been selected, are they required to obtain 3 bids before awarding any subcontractor? If so, how is that monitored and what are the consequences if a general contractor does not follow these procedures or document the procedures correctly? Our concern is that we have limited staff to oversee this process and ensure all requirements are followed/documented. Many of these projects will consume a considerable amount of time, meaning staff will either be required to reduce their current workload or additional staff will need to be hired for monitoring. Page 7 of the contract states *the terms of this Contract shall be included in any subcontract and shall provide that OJA shall have authority to directly monitor the subcontractor's compliance with the terms of this Contract and any subcontract. The existence of a subcontract shall not relieve Contractor of any of the Contractor's responsibilities in the performance of this Contract. Your bids and contractual agreement with your subcontractor need to spell out these requirements which goes along with the need for item 6 below.*
6. Referring to the following: *"Upon receipt, OJA will review the details. When OJA has reviewed, then Contractor can obtain signatures, Contractor will issue a Notice to Proceed. Copies of the final contract documents will be returned to the OJA and the subcontractor. The subcontractor is not to start work until a Notice to Proceed has been issued by Contractor."* we are unclear on (a) does this mean we are required to get OJA's approval for any contractor/subcontractor before we proceed? If so, on what grounds would OJA not approve a contractor/subcontractor, and (b) as time of the essence, what is the maximum amount of time OJA would be allowed to approve/reject a contractor/subcontractor? OJA needs to ensure that the bid language, bid documentation, response documentation and etc is sufficient as an attempt to not have to deny or return funds to the feds at a later. OJA's response time should be less than a week, and shorter than that in most cases, as long as all the documentation is in order.
7. If purchasing property, is it necessary to get bids for a realtor, closing company, and the numerous fees associated with purchasing a facility? As long as we document that all fees are reasonable, including the purchase price of property, do we need to obtain bids? Yes, as long as costs are fair and reasonable and the realtor is a licensed real estate agent, proceed as if they are a professional exempt service with no bid required.

#### DRAW OF FUNDS:

1. Is there an option to receive the funding in multiple draw downs, ie 20% initially then an additional 20% when allocated funds are utilized. There are counties that are administering ARPA funds this way. No, counties may be administering ARPA funds in that fashion but that is not how OJA will be receiving the funds nor is it an allowable option for OJA in disbursing the funds by the guidelines set forth to OJA as of right now. However, OJA can inquire to see if any consideration has been given or can be given for such.

2. If the drawdown model above is not an option, could you please clarify the 30 days to utilize funding rule? Do we request a PO, receive funds, and those funds must be expended within 30 days of receipt? If funds are not fully expended within that time frame, what then happens to those funds? Our concern, from our recent experiences, is that contractors and subcontractors have a tendency to commit but then due to numerous reasons, do not/are not able to follow through with their commitment. Supply chain issues continue to be a major concern as well. OJA attempted to spell that out in the Cash Management Policy. *OJA is allowed to front 30 days. If those funds are not expended within the 30 days, OJA runs the risk of no longer being able to be eligible for advance payments to any of the ARPA entities so OJA cautioned ensuring that projects will need these funds prior to requesting them. OJA explained in the cash management policy that any remaining funds from the advance payment not expended will be deducted from the next claim's request. Any advance payments must provide full documentation with the next request past that 30-day time frame supporting that funds were actually expended. OJA may have to inquire with OMES on options to attempt to request funds for entities but not actually pay those amounts to entities until the entity knows the funds are indeed needed. Then, the burden of holding those funds is with OJA to juggle and maintain with OMES. OMES still has a similar requirement of OJA, but OJA can see what OMES would allow with OJA. OJA has EFT options set up for each of these entities so payment should be rather quick if the item had already been reviewed and approved but just waiting on actual date needed. OJA will have to work with OMES on a process for such so that we avoid running into issues that will cause the revocation of allowing advance payments.*
3. Please clarify if funds must be fully expended by Dec 31, 2026 or June 30, 2026? *OJA has set June 30, 2026, for our contract purposes for various reasons. We have over a 3-year period to get these funds expended. OJA can look at contracts on a case-by-case basis and possibly due a no cost extension if valid reasons exist but at this time that is not the expectation.*

Miscellaneous:

1. Is it necessary for all agencies to have a contract signed before proceeding? If an agency has submitted a signed contract and has an approved budget, can they begin drawing down funds? *Each entity is a separate contract. OJA has to map out a draw schedule for these funds just as each entity is doing. OJA has requested flexibility from OMES to allow OJA to submit their draw schedule in updated portions which was approved this week.*
2. None of the contracts have the award amount included. Before signing, we would like the contracts to have the specific amounts for each agency. *Correct, as stated in the original email sent out on January 20, the contract will be updated with the not to exceed amount based upon the submitted budget if that amount does not exceed the amount listed below less 2%. (By amount below, each email was submitted individually with that entity's amount that will be less 2%). Then, it will be sent out for signature from our purchasing department for signature via adobe sign. Thus, yes, the intention has always been to include the specific amount in each contract after budgets have been received, reviewed and contract officially submitted for signature. No contract will be signed that has not been sent out from OJA's procurement without dollar amounts matching budgets.*
3. Could you please send the total contract amounts for each agency to myself as well as the OAYS office? *OJA took the amounts less 2% in a round with to 0 with no decimal formula. See attached document titled ARPA\_less\_2percent.*