

These FAQs do not apply to foreign governments and agencies of the United Nations who may follow their own procurement procedures.

The following Frequently Asked Questions are for nongovernmental organizations based in a country other than the United States (International NGO) that are considering contracting with a business that is incorporated in or otherwise has its main base of operations in a country other than that of the International NGO, including companies located in the United States (Covered Company). This guidance applies when you want to hire such a Covered Company to provide technical or administrative support for the project that is the subject of our proposal to EPA. You may follow your own procurement procedures when contracting with businesses located in your own country.

Q. If we are contracting with for profit businesses outside of our country what do we need to do to comply with EPA's requirements when selecting a Covered Company?

EPA requires that International NGOs openly compete for contracts that may be awarded to a Covered Company to the maximum extent practicable. EPA has determined that International NGOs may comply with EPA's requirements by using any of the following methods.

1. Posting a request for proposals that describes the services your organizations need on your web site for at least 20 days, and contacting the U.S. Small Business Administration (SBA) and advising the SBA of the EPA funded contracting opportunity posted on your web site. Here is information regarding how to contact the U. S. Small Business Administration (SBA).

SBA Answer Desk
1800-U-ASK-SBA (1800-827-5722)
Send e-mails to: answerdesk@sba.gov
Answer Desk TTY: (704) 344-6640
[\[Spanish\]](#)

2. Soliciting proposals from a minimum of three Covered Companies that have the expertise needed to perform the contract, advising the U.S. Small Business Administration (SBA) of the EPA funded contracting opportunity, and considering offers from any qualified U.S. based firms referred to you by SBA.
3. Using other selection methods which ensure full and open competition for services and products provided by Covered Companies, including efforts to allow

U.S. based Disadvantaged Business Enterprises businesses to compete, for the contract.

Q. We are a nongovernmental organization based in a country other than the United States (International NGO) and would like to consider contracting with a Covered Company to obtain technical support for the project that is the subject of our proposal to EPA. May we contract with a Covered Company on a sole source basis (without competition) because we are familiar with the Covered Company because of the work the Covered Company has done in our country in the past?

No. For example, the U.S. marketplace has a number of engineering, environmental consulting, and other firms that are qualified to compete to provide services that you will need to perform your methane to markets cooperative agreement. Sole source contracting is not acceptable unless a firm holds a patent on technology or a software copyright for a service or product that is absolutely necessary for your organization to perform its project.

Q. A Covered Company helped us write the proposal and we have identified the company in our proposal as a project partner. May we contract with the firm on a sole source basis if EPA selects us for funding?

No. If you name a Covered Company in your application for funding from EPA you still must demonstrate that you selected the firm in compliance with the competition requirements described in these Frequently Asked Questions.

Q. In soliciting proposals from Covered Companies, may we require that the company demonstrate that it is familiar with environmental conditions in our country and has personnel who speak our language to qualify to submit a proposal?

Yes.

Q. Must we conduct a cost or price analysis before awarding the contract?

Yes. However, if your organization conducts a competition, and evaluates the reasonableness of the rates a Covered Company charges by comparing those charged by the companies competing for the work, the price analysis requirement will be satisfied.

Q. Must we contract with the Covered Company that offers the lowest price?

No. However, you must document why the firm you select offers better value than the lower priced firm.

Q. May our consultant from a Covered Company help us prepare any part of the proposal's specifications for the request for contract proposals?

Yes, but that firm may not compete for the contract that is the subject of the proposal.

Q. Are there other conflict of interest requirements that apply to contracts that we award with EPA funds?

Yes. Your employee, officer or agent (including consultants) may not participate in the selection, award, or administration of a contract under an EPA grant if the individual, or any of the individual's family members or partners, or an organization which employs or is about to employ any of these persons, has a financial or other interest in the Covered Company selected for the contract. This would be an inappropriate conflict of interest. These individuals may not does not solicit or accept gratuities, favors, or anything of monetary value from your contractors. You may, however, set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.

Q. We are considering soliciting proposals for architectural and engineering services from Covered Companies. Are there special requirements that apply?

Yes. **To obtain architectural/engineering (A/E) professional services**, you may use a qualifications-based form of the competitive proposal method. The difference between this method and the normal competitive proposal method is that, after you receive proposals, you may evaluate competitors' qualifications and select the most qualified competitor, subject to negotiation of fair and reasonable compensation. Price is not necessarily a selection factor. You then negotiate a price with the most qualified firm. If you cannot reach agreement on price with that firm, reject the bid and open negotiations with the next most qualified firm. In other respects, this method is similar to the competitive proposal method and you must conduct a cost review to determine that the price will be reasonable before agreeing on price. One method of conducting this review is to compare the charges for labor and other items with those that would be charged by other offerors. Another method is to verify that the company you have selected charges you the same rates as it does other organizations in your country or in countries that are similar to yours.

Q. Do EPA's procurement requirements apply if we want to make a "subgrant" to a U.S. based university or non-profit organization as a project partner?

Probably not. However, EPA will need to examine the nature of the financial arrangements to ensure that your organization is awarding a proper subgrant. For example, an arrangement with a U.S. based university or non-profit organization for accounting or data processing services would not be a proper subgrant. Also, any arrangement that allows the university or non profit to obtain payments from you in excess of its actual costs (including indirect costs) would not be a proper subgrant either.

Q. Where may we obtain additional information?

Here is a link to EPA's guidance on procurement of contractors.
<http://www.epa.gov/ogd/recipient/procurement.htm>