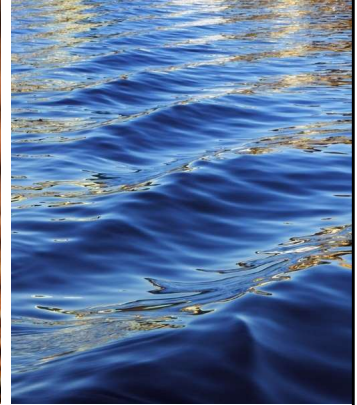


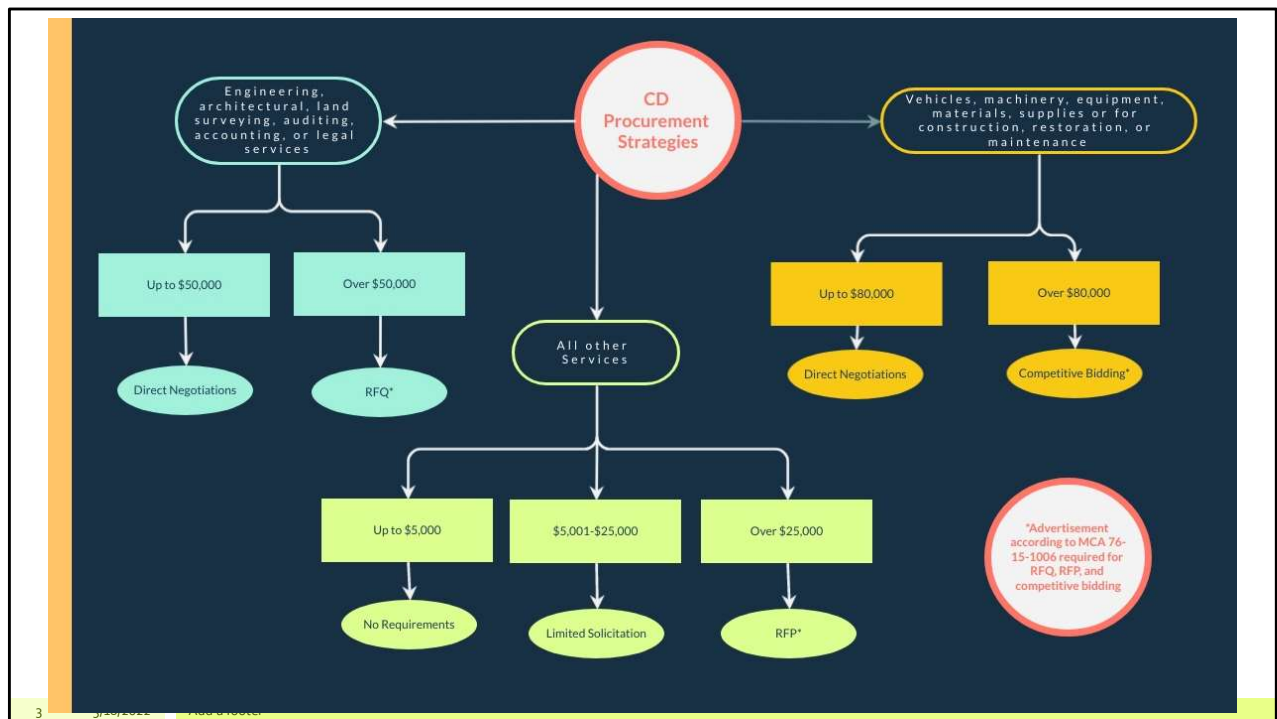
Procurement 101

Conservation District Training





To start this training off with a little comedic relief – we will be going back to the future. By that I mean that I will be teaching this class backwards. We're going to start with the conclusion, then I'm going to tell you how to get there. But for a topic that involves CD law, grants, and contracting, of course doing what doesn't make any sense seemed like it would make the most sense. So here we go!



At the end of this training, you should (hopefully) be able to correctly determine the type of procurement you need to use for your project, how many quotes and of what kind you need to get, and how to advertise to get those quotes. With any luck, you'll also understand what the difference between an RFQ and an RFP is.



1) Types of Projects



Types of Projects:

"Engineering, architectural, land surveying, auditing, accounting, or legal services"

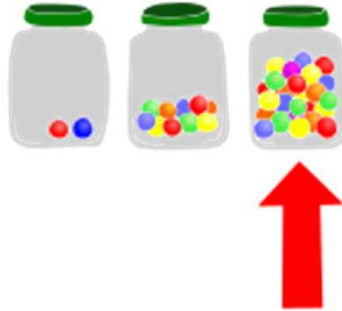
- Services that require a certified or licensed professional
- Example: an engineer's "stamp"
- 76-15-1004 MCA

All other services

- Services that do NOT require a license or certification (even if conducted by someone who has a license)
- Example: a certified engineer provides consultation on a project
- Example: no "as-built" needed on project
- When in doubt, ask them

Vehicles, machinery, equipment, materials, supplies, or for construction

- Purchases (not services)
- Construction



76-15-1004 MCA “the majority of services to be rendered”

This is an estimate, because you don't actually know. Looking at a larger project, you may assume that over 50% of the work is going to require an engineer, but then you hire someone and when they run the preliminary modeling you find out it's pretty straightforward for design but the dirt moving and implementation is going to be much bigger than anticipated. That's fine. You're not expected to be able to predict the future, just make the best decisions you can with the information you have. And document, document, document! A good example would be (Cow Creek w/ No Rise)



Caution: the water's a little muddy here.

What about multiple contracts on one project?

It is illegal to break a project into two parts to avoid procurement, but you can have more than one contractor.

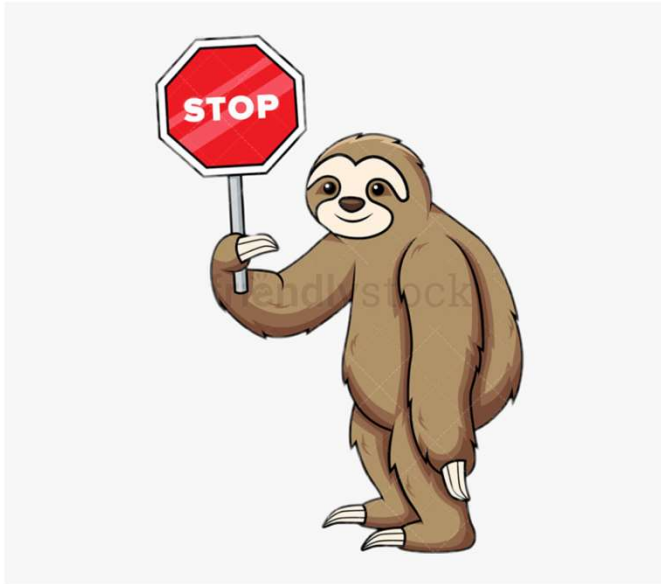
In cases where you have more than one contractor, look at the work that each are doing separately to determine project type. This is common in phased projects.

Think about a larger stream restoration project. You might secure a grant to do an alternatives analysis which an engineer does (this would be an engineering project). The alternatives analysis tells you that a low-tech process-based restoration method is the best alternative. As this won't necessitate additional engineering, implementation of the restoration project would be considered "other services" and would likely be done by a consultant (even if that consultant has an engineering license).



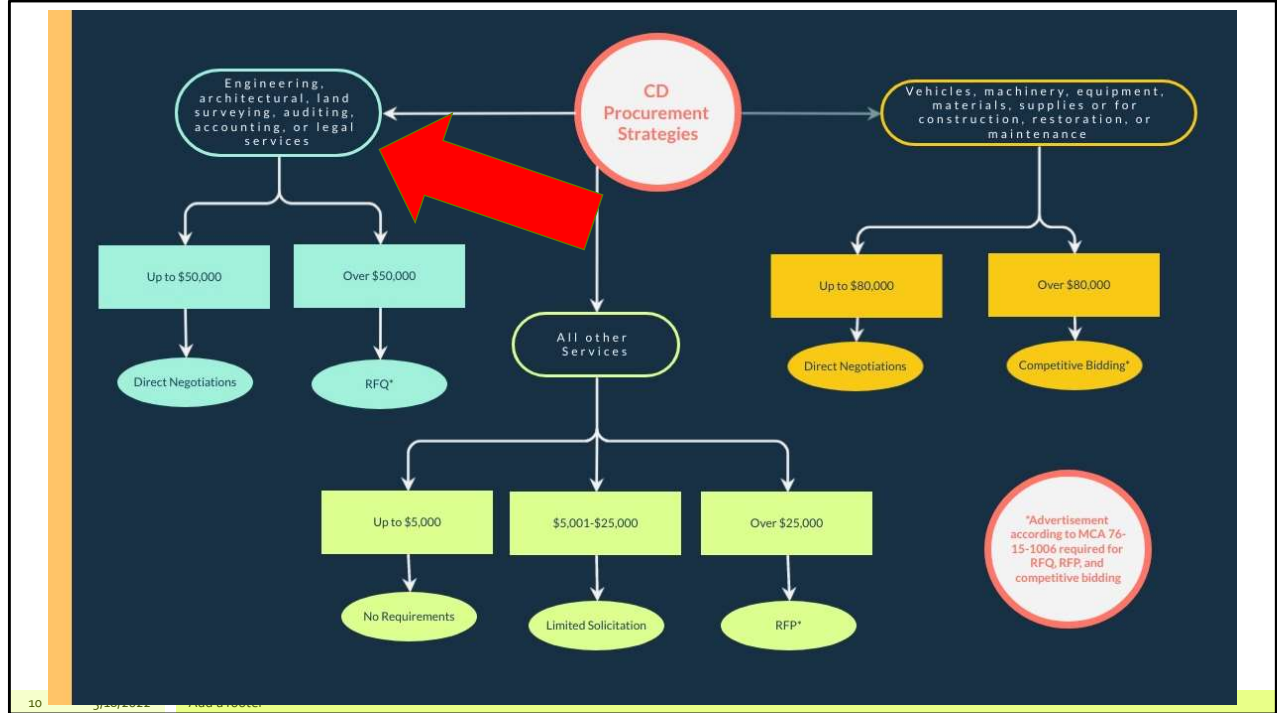
2) Select Solicitation Method





Did you read your contract?

If you're going through procurement under a grant, double check the stipulations of your grant. Sometimes you are required to provide record of your solicitation process, sometimes you're selection has to be approved by the granting agency. Also, if you put in your application budget that 75% of the budget would go towards engineering, then that's what your contract says. Make sure your procurement process aligns with what's in your contract!



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Engineering etc. services

Up to \$50,000

Direct Negotiations! Yay!

- Contract your preferred provider
- Negotiate an agreement of services
 - Eg: define what services will be provide for what cost

Can be an informal process but should include some type of written contract

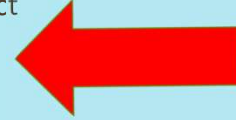
If the cost of your project is estimated to be less than \$50,000 use direct negotiations. If the estimated cost of your project is over \$50,000 you need to use a Request for Qualifications

An example might be an RRGL planning grant where you are hiring an engineer to do an alternatives analysis, but the budget is estimated to be under \$50K. Another example might be hiring an accountant to do an audit of your books.

Engineering etc. services

\$50,001 and over - Request for Qualifications (RFQ)

- Request a statement of qualifications
 - Think of it like requesting a resume and references when hiring an employee
- While project sponsors usually consider price when selecting a provider, it's not required
 - Select the provider that is most qualified to do the project
- Must be advertised according to MCA 76-15-1006



If the cost of your project is estimated to be less than \$50,000 use direct negotiations. If the estimated cost of your project is over \$50,000 you need to use a Request for Qualifications

Engineering etc. services

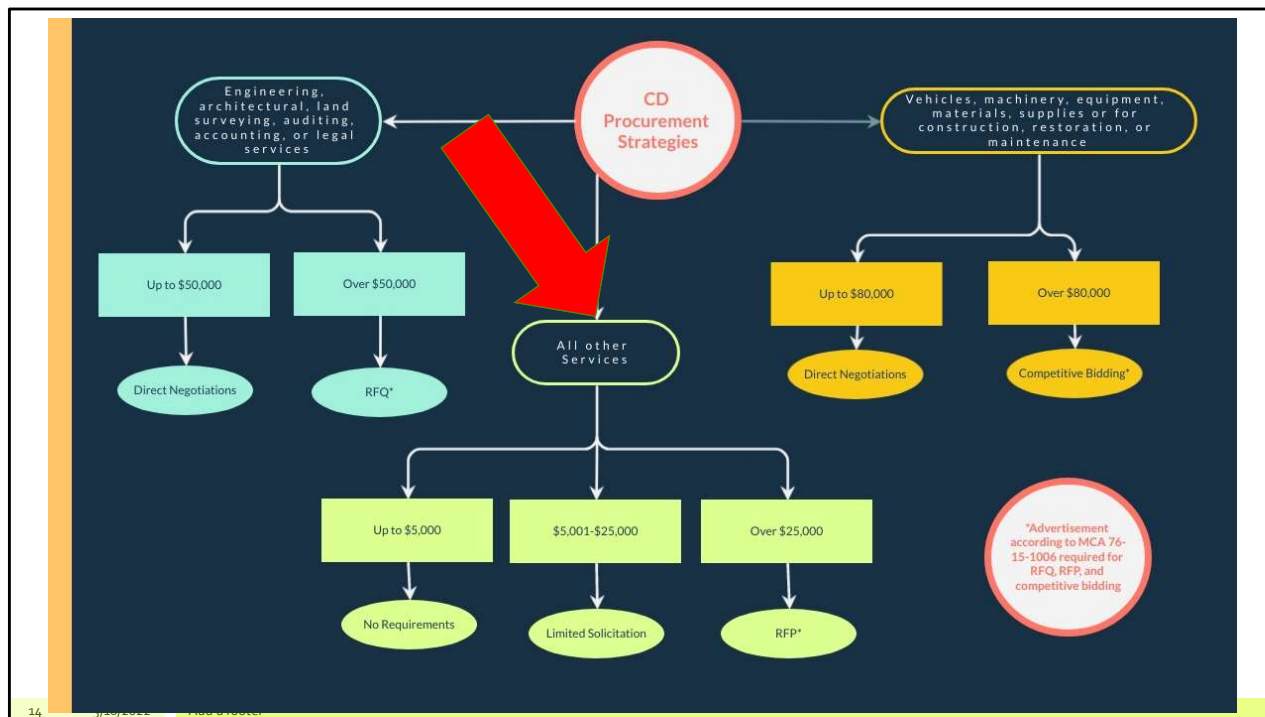
Pro Tip! (and potential life raft?)

- 18-8-204 MCA
- Ask for annual qualification statements
 - Specifics stated in MCA
- Select engineer best qualified for each project
- Or contract with an engineer to work on an as-needed basis



In an effort to keep the water analogies flowing – I’m going to throw you a life raft.

When it comes to architectural, engineering, and land surveying services, you can request an annual statement of qualifications from



“Other Services” - Any services not listed under 76-15-1004 MCA

Up to \$5,000 – No Requirements!

Select the provider that suits your needs best based on availability, past work experience, cost, etc.

Best Management Practices:

- Spread the work out, don't just use the same person over and over
- Document why you chose who you chose and keep for audits
- Ask for a cost estimate so you have it in writing

An example might be that you need to hire a landscaping company to cut the grass at your office or you are hiring a marketing company to design a few advertisements.

“Other Services” - Any services not listed under 76-15-1004 MCA

\$5,001 - \$25,000: Limited Solicitation

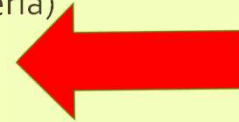
- Collect a minimum of 3 cost estimates (written or oral)
- If you have to go with one that's not the cheapest, you must justify it (bad reference, can't do it in timeline, etc.)
- Document your process. If you received 3 quotes over the phone, write down who told you what and keep it for your records.

This process can be as simple as calling 3 potential providers and getting quotes. You can also send them a project description and have them respond with cost estimates. For example: you need the lawn mowed at the office so you call three landscaping companies. They each tell you their hourly rate and how much they think it will cost for the entire summer and you go with the one that has the best deal (but can still do quality work).

"Other Services" - Any services not listed under 76-15-1004 MCA

\$Over 25,000: Request for Proposal

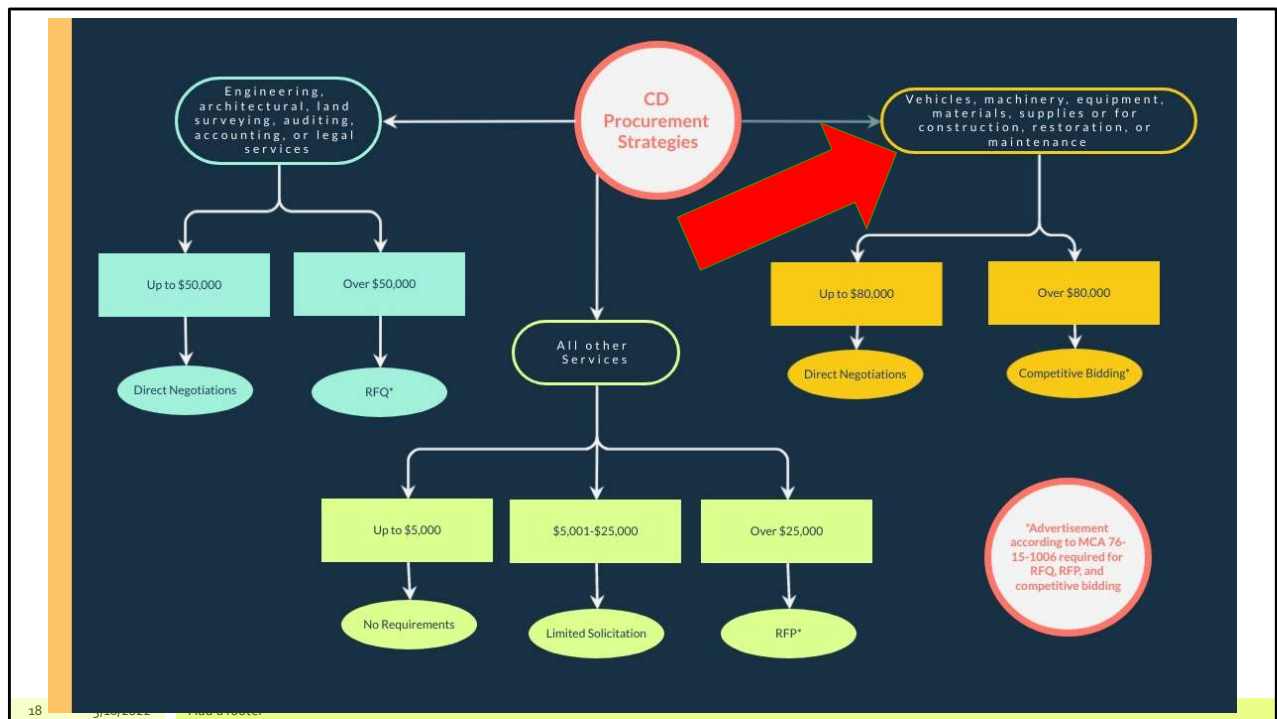
- You know where you want to start and what the goals are, but you don't know all the exact details
- This solicitation typically will require a project-specific budget with a cost estimate. Selection will be dependent, in part, on price
- Contractor provides plans, you score with ranking criteria, select the best proposal
- Detailed cost estimate is submitted by contractor and is used in ranking of proposals (should be 20% of ranking criteria)
- Must be advertised according to MCA 76-15-1006



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5/18/2022

For example, you know you want to restore this stream, but you don't know exactly how it will be done and you don't have final designs – the contractor proposes a method. As a reminder, an RFQ is like a resume where you are evaluating their qualifications, whereas the RFP they are proposing how they will do the work and what it will cost and you evaluate their proposal.



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Purchases


Up to \$80,000: Direct Negotiations

- This is the same process as direct negotiations for engineering etc services up to \$50,000.
- Contract your preferred provider
- Negotiate an agreement of services
 - Eg: define what services will be provide for what cost

Can be an informal process but should include some type of written contract

Purchases

Over \$80,000: Competitive Bidding

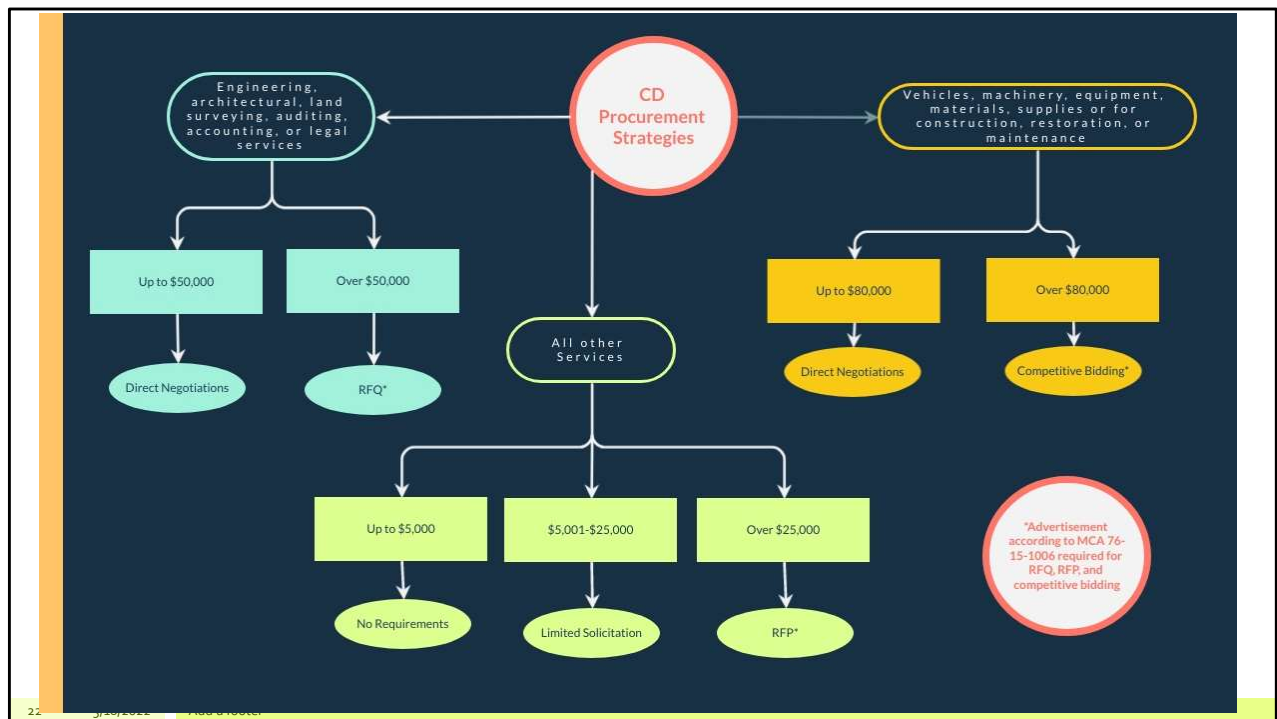
- Requires a bottom-line price, selected solely on best cost
 - Request for bid generally requires substantially more detail than RFP or RFQ
 - Much more formal process, generally “sealed bids”
 - Must be advertised according to MCA 76-15-1006
- 
- If you get to this point, I recommend you contact DNRC and we will help you through it or you work directly with the MT Procurement Bureau



Pop Quiz!!!

Name that procurement process





I'm buying a new printer, it will probably cost \$2,000

We're doing a big stream restoration project. Over 50% of the work will likely be engineering and the total project budget is about \$125,000.

We're sponsoring a landowner to fence his cattle out of the stream. Total project cost is estimated to be about \$12,000 for fencing installation.



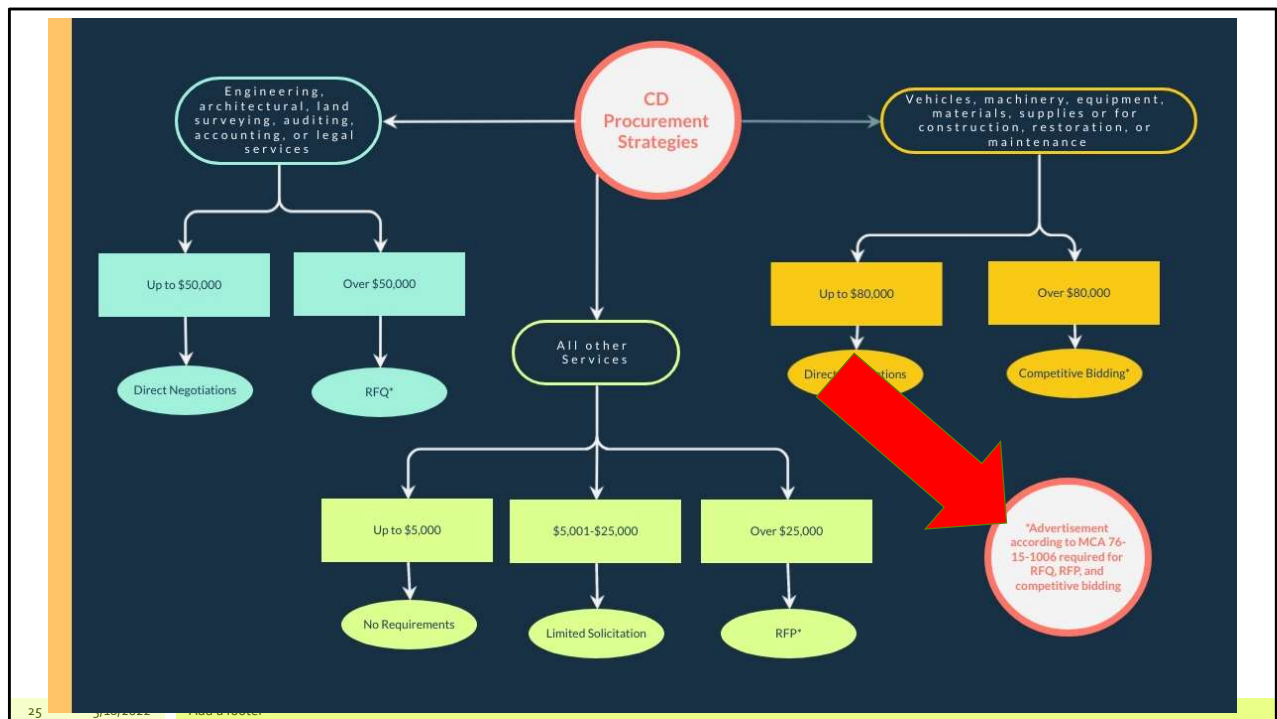
Caution: the water's a little muddy here.

- Sole Source Procurement
 - DNRC grant manager must approve ahead of time
- Emergencies
- No quality responses



Advertising





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Advertising

MCA 76-15-1006

- Must be published in a newspaper of general circulation in district area
- A second publication may not be made less than 5 days or more than 12 days before the opening of bids
- A second publication may not be made less than 5 days or more than 12 days before the deadline for the submission of a request for proposals or a request for qualifications



Much like figuring out what implications your actions will have on the space time continuum if you change the past, figuring out when you need to advertise can really mess with your brain. When in doubt, advertise more. The intent of this law is to make sure everyone has an opportunity to submit a response.

Advertising

MCA 76-15-1006

- Minimum of two advertisements in the newspaper
- First advertisement can be anytime

12 days before opening ← 5 days before opening ← Opening of bids
Close of bids → 5 days before close → 12 before close



Advertising window for 2nd advertisement

Your first advertisement can be anytime. If you want high-quality responses, I recommend calling local firms/contractors and letting them know the RFP/RFQ will be opening.

JUNE 2022

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|-----|-----|-----|-----|-----|-----|-----|
| 29 | 30 | 31 | 1 | 2 | 3 | 4 |
| 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| 12 | 13 | 14 | 15 | 16 | 17 | 18 |
| 19 | 20 | 21 | 22 | 23 | 24 | 25 |
| 26 | 27 | 28 | 29 | 30 | 1 | 2 |

Free Printable Calendars from [Typecalendar.com](https://www.typecalendar.com)










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5/18/2022
Add a footer

76-15-1006

A second publication may not be made less than 5 days or more than 12 days from opening

A second publication may not be made less than 5 days or more than 12 days from deadline

ACTIVITY: use the calendar to determine when you should advertise based on a specific closing date or specific opening date. Or, use the calendar to figure out when you should open or close based on your local newspaper circulation schedule (weekly?).



References



MCA & CD Law Book

- <https://leg.mt.gov/bills/mca/index.html>
- <http://dnrc.mt.gov/divisions/cardd/docs/cd-new/cd-new-documents-folder/2020web.lawbook.pdf>

I like using the MCA online because everything references something else, but it's all hyperlinked online so you can easily flip back and forth
I also like using the law book online because then I can do a search (ctrl+F).