# OSD
## OPERATIONAL SERVICES DIVISION

**Date**: April 6, 2023

**To**: Executive Agency Chief Procurement Officers

**From**: OSD Legal Compliance

**cc**: Secretariat Chief Procurement Officers

**RE: OSD Legal Compliance Guidance**

*This communication is intended for Executive Agency CPOs to review and share with procurement staff to maintain compliance*.

**New COMMBUYS Functionality – Closed Bid**

Since its inception in July 2021, OSD's Quality Assurance Program has calculated and tracked on a quarterly basis every agency's "Overall COMMBUYS Compliance," which is defined as the percentage of bids open to bids closed and/or awarded in COMMBUYS.

In December 2022, OSD introduced functionality in COMMBUYS allowing Departments to manually close bids by selecting a reason code in a dropdown menu. This functionality allows Departments to specifically identify their procurement awards, thus enabling greater transparency and higher COMMBUYS compliance scores.

It is important to note that OSD has not made changes or amendments to its regulations or polices surrounding the required use of COMMBUYS to award or otherwise close bids. Through COMMBUYS reports, OSD will review Departments' use of this functionality to ensure compliance with all statutes, regulations, and policies, and will adjust compliance scores accordingly.

Please distribute this document to all department personnel who need to be aware of these changes and make necessary modifications to your departments' internal procurement, contracting, and purchasing procedures so that your organization is fully compliant with these policies.

Please see **Image 1** and **Table A** for guidance on closed bid functionality.

**Procurement File and Procurement Folder Required Documents**

OSD is pleased to provide guidance on the Procurement File, its required components and where those documents should be located in COMMBUYS/CLM.

The Procurement File and Procurement Folder serve two primary purposes: 1) they provide accurate records of the procurement process (RFR development, evaluation, and selection), and 2) serve as contract management tools to monitor and document contract performance and activity.
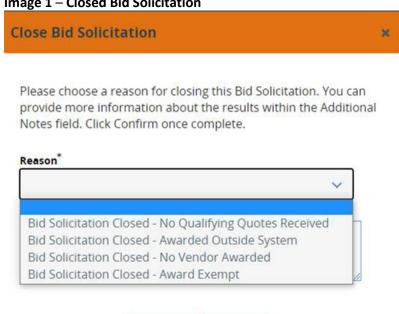
Executive departments are required to post records on COMMBUYS and are required to utilize the CLM tool for creating or uploading the documents, and using the CLM workflows and approval paths to ensure documents include all required components and required language. In addition, departments should use the file names created by the CLM tool to make it easier to identify and report on the required documents. Users are asked not to make changes to the default file names in CLM. The CLM tool includes functionality to push required documents directly from CLM into COMMBUYS, which simplifies compliance with procurement document requirements.

Please see **Table B** for Procurement File and Procurement Folder required documents and where those documents should be located in COMMBUYS/CLM. **Specifying Bid Solicitation Reason Codes for Items Not Awarded**.

OSD has added COMMBUYS functionality that allows users to manually close bids. Users should use the Closed Bid Solicitation functionality consistent with the definitions in this memorandum and in the Conducting Best Value Procurements handbook. Bids that users intend to *cancel* are not supported by this functionality.

On the Summary tab within the Bid Tabulation, the purchaser must select a reason when the Award checkbox is not checked for items included on the Items tab. Users will select a reason from a drop-down menu and may enter a comment within the Additional Notes field before the Bid Solicitation's status is set to Closed.

**Image 1** – **Closed Bid Solicitation**



**Table A** - **Closed Bid Solicitation**

| COMMBUYS Reason Category | OSD Definition | Notes |
|---|---|---|
| **No Qualifying Quotes Received** | Use when a bid has been posted, but no qualifying bids have been received. | |
| **Awarded Outside System*** | Use only with OSD Legal Compliance approval when an award has been made outside of COMMBUYS. | It is expected that all bids for goods and services covered by 801 CMR 21.00 will be awarded in COMMBUYS. |
| **No Vendor Awarded** | Use when no vendor has been awarded inside or outside of COMMBUYS. | |
| **Award Exempt** | Use when posting an item such as an RFI or WTO where no award is expected. | |

**Table B** – **Procurement File and Procurement Folder**

| Procurement File Required Documents | Notes | Where file should be found |
|---|---|---|
| RFR | Created in CLM and pushed to COMMBUYS | Attachment to Bid Solicitation in COMMBUYS |
| Bidder Q&A | Departments must use Q&A feature in COMMBUYS | Departments may download Q&A data and upload as attachment to Bid Solicitation in COMMBUYS |
| Bid Amendments | Created in CLM and pushed to COMMBUYS | Attached to or captured in Solicitation record in COMMBUYS |
| Bid Responses | Must be accepted only in COMMBUYS | Should be publicly available in the Bid Tab of the Bid Solicitation after the bid is opened in COMMBUYS |
| Evaluation Criteria | Created in CLM and pushed to COMMBUYS as a Bid Package Document | Attachment to Bid Solicitation in COMMBUYS |
| Final Evaluation Scores | File name should include the words "final evaluation scores" | Attachment to Bid Solicitation in COMMBUYS as a general attachment on the Bid Tabulation page. |
| Awarded Vendor List | Automatically generated in COMMBUYS if procurements awarded in COMMBUYS | List visible in COMMBUYS |

| Procurement File Required Documents | Notes | Where file should be found |
|---|---|---|
| SDP Plan Forms | Submitted by vendor with bid response | May also be attached to vendor contract record or MBPO in CLM or COMMBUYS |
| Evaluation Forms (with scores) | | Uploaded as attachment to Bid Tabulation in Bid Solicitation or COMMBUYS |
| Fully Executed Standard Contract Form | Executed in CLM | Attached to contract record in CLM |
| Contract Amendments | Executed in CLM | Attached to contract record in CLM |
| Executed vendor W-9 form | Executed as contract package document in CLM | Attached to contract record as contract package document in CLM |
| Executed Contractor Authorized Signatory Listing (CASL) Form | Executed as contract package document in CLM | Attached to contract record as contract package document in CLM |
| Completed and executed Prompt Payment Discount Form | Executed as contract package document in CLM | Attached to contract record as contract package document in CLM |
| Electronic Funds Transfer (EFT) form | Executed as contract package document in CLM | Attached to contract record as contract package document in CLM |

**MEMO**