

## **1. PROCUREMENT**

*Regulatory/Statutory Citations: Section 104 of the Act, 2 CFR 200.320*

If the City's CDBG funds are used to pay for a product or service in whole or in part, the procurement procedures in this chapter must apply. All procurements, regardless of dollar amount, must be conducted to provide open and free competition. Before entering into any agreements to purchase equipment or materials, or professional services, compliance must be verified with the federal procurement requirements.

### **1.1. Policy: General Procurement Standards**

1. Procurement reviews must be undertaken to avoid unnecessary and duplicate purchases.
2. The analysis of lease and purchase alternatives must be undertaken to determine which would be the most economical and practical procurement.
3. All procurement transactions must be conducted in a manner to provide, to the maximum extent practicable, open and free competition. Awards shall be made to the bidder whose bid or offer is responsive to the solicitation and is most advantageous to the City, with price, quality, and other factors considered.
4. Solicitations for goods and services shall clearly set forth all requirements that the bidder shall fulfill in order for the bid to be evaluated properly. Solicitations must include a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such a description shall not contain features that unduly restrict competition, and include functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards. The description shall also include all factors to be used in evaluating bids or proposals.
5. Solicitations must ensure that the type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) is appropriate for the particular procurement and for promoting the best interest of the program or project involved. "Cost plus a percentage of cost" or "percentage of construction cost" methods of contracting shall not be used.
6. The City will enter into contracts only with responsible contractors who possess the ability to perform successfully under the terms and conditions of the proposed procurement.
7. All procurement records will be maintained, to include the following:

- a. Basis for contractor selection;
  - b. Justification for lack of competition when competitive bids or offers are not obtained; and
  - c. Basis for award (e.g., best value, price, or technical superiority).
8. The City will maintain a system of contract administration to ensure contractor compliance with the terms, conditions, and specifications of the contract and to ensure adequate and timely follow-up of all purchases.

## 1.2. Procurement Procedures

1. **Full and open competition.** All procurement transactions should be conducted in a manner that provides full and open competition. Bids must be solicited by mail and public notices in large circulation daily newspapers, large regional papers, and/or special trade publications. Procurement procedures should avoid any provisions that would restrict or eliminate competition. Some of the situations considered to be restrictive of competition include:
  - a. Placing unreasonable requirements on firms in order for them to qualify;
  - b. Requiring unnecessary experience and excessive bonding;
  - c. Specifying a “brand name” product instead of allowing an equal product to be offered; and
  - d. Any arbitrary action in the procurement process.
2. **Methods of procurement.** One of the following methods is deemed appropriate based upon need and the nature of the services required.
  - a. **Small purchase procedures.** Relatively simple and informal procurements for securing services and supplies that do not cost more than \$150,000 in the aggregate. A minimum of two qualified sources shall be obtained.
    1. Price or rate quotations shall be obtained from an adequate number of qualified sources.
    2. Record the rate or quote received along with other identifying information (name, address, and telephone numbers) and document the questions asked.
    3. Follow prudent purchasing practices and receive competitive telephone or written quotations for all small purchase procurements.

4. When price quotations are obtained orally, written supportive documentation, such as detailed notes describing telephone contacts (who, what, when, etc.), must be maintained in the files.
- b. **Procurement by sealed bid.** Bids are publicly solicited and a firm fixed-price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest price. The sealed bid method is the preferred method for procuring construction services when the following conditions exist:
1. A complete, adequate, and realistic specification or purchase description is available;
  2. Two or more responsible suppliers are willing and able to compete effectively for the business;
  3. The procurement lends itself to a firm fixed-price contract (a specified price to be paid when the items or services are delivered); and
  4. Selection of the successful bidder can appropriately be made principally on the basis of price.
- c. **Procurement by competitive proposals.** This method of procurement is generally used when conditions are not appropriate for the use of sealed bids. The method for soliciting competitive proposals is the publication of a Request for Proposal (RFP). Procurement by competitive proposals is the appropriate procurement procedure for retaining professional services such as an architect, auditor, or engineer.
1. When only one response is received to a competitive solicitation, the procurement process will be reviewed to determine whether it was unduly restrictive or tailored to a particular contractor or supplier.
  2. Demonstrate that a reasonable effort has been made to assure maximum open and free competition and that its procurement procedures did not have the effect of unnecessarily restricting competition.
- d. **Procurement by Noncompetitive Proposals.** This is a procurement through solicitation of a proposal from only one source or, after solicitation of a number of sources, competition is determined to be inadequate. Such procurements may be used only when the award of a contract is unfeasible

under small purchase procedures, sealed bids, or competitive proposals, and one of the following circumstances applies:

1. The items or services required are only available from a single source;
2. A public emergency exists such that the urgency will not permit a delay beyond the time needed to employ one of the other authorized procurement methods; or
3. After solicitation from a number of sources, competition is determined to be inadequate, and the City Manager authorizes the noncompetitive method.

3. **Preparing a Request for Proposals (RFP).** An RFP is a written announcement that invites consultants to compete for the provision of services. The RFP should include:

- a. The name of the local government issuing the RFP;
- b. A brief description of the project including location, purpose, time frame, and present status;
- c. The entire project scope;
- d. The time frame for performing the work, including any major milestones or deadlines involved;
- e. Concise language, containing all the important information needed for the firms to respond in a factual manner;
- f. A description of any unique problems involved in the project and any previous studies that would be available for bidders' reviews;
- g. A general description of the scope of the services to be provided by the consultant;
- h. A demonstration of the consultant's knowledge and experience using details of how they would approach the problem and the alternatives that should be considered;
- i. The amount budgeted for the proposed scope of service; knowledge of the available budget will help the consultant to fit the proposal to the financial resources available;
- j. The method of payment to be used;

- k. Information required of each respondent in order to make the selection, including consultant qualifications, related experience on similar projects, current and projected workloads, capability to meet time and budget requirements, and identity of and qualifications of professional personnel to be assigned to the project;
- l. The methods and criteria to be used in evaluating the proposals, and the relative weight of each of the criteria;
- m. The name and telephone number of a local person who can be contacted for further information regarding the RFP; and
- n. Directions for submitting a response to the RFP. The directions for submitting the RFP should specify the date and time of the submittal deadline and the number of copies required. Since proposals are sometimes hand-delivered, an office address where someone will be available to accept them should be included.

#### **4. Soliciting proposals**

- a. RFPs and solicitations should be advertised at least once in the local newspaper used for legal notifications. This does not mean that the entire text of the RFP must be included in a legal advertisement, but that the advertisement should briefly announce that the City is requesting proposals and that a copy of the detailed RFP is available at a given website location or upon request.
- b. Copies of the RFP may be sent to firms that have previously indicated an interest in submitting a proposal.
- c. Bidders should be given at least four weeks to respond.

#### **5. Reviewing proposals and selecting a consultant**

- a. A committee of three to five people should be established to review the responses to the RFP. Members of the committee should be familiar with the RFP and work to be accomplished through the contract.
  - i. The committee should use no more than 45 days between the proposal deadline, evaluation of the proposals, and the final selection of the consultant.
  - ii. The committee should interview more than one of the firms that submitted responses before making a selection in order to

demonstrate that adequate competition took place. The review committee should interview the finalists separately.

- iii. Standard questions should be asked during the interview to allow comparison of the responses. The same questions should be asked of each firm.
- iv. After ranking the responses in order of their scores on the evaluation factors and checking references, the committee will make their recommendation to the City. The City should notify all of the respondents of the results in writing as soon as possible.

## **6. References**

- a. Before final selection is made, references must be checked.
- b. A list of prior clients should always be requested, including their name, description of the work performed, address, and the name and phone number of a person to contact. A list of their most recent projects should also be required.
- c. Several references for each respondent being considered should be contacted.

## **7. Preparing the contract**

- a. Negotiation with the selected bidder will include the scope of services, timetable, contract cost, and payment terms.
- b. State that only those key individuals who are identified in the firm's proposal for specific tasks are permitted to charge their time and expenses to the job. This does not apply to clerical and support staff whose costs were not specified in the consultant's original proposal.
- c. State that all commitments stated in the contract must be honored unless changes are approved in writing.

## **8. Contract Administration and Supervision**

- a. Monitoring of the contractor's performance and progress in completing contracted work tasks is critical to ensuring the quality, timely completion, or cost of the contract.

- b. All payment requests must be reviewed carefully before they are approved to make sure that costs are reasonable and are consistent with the terms of the contract.
- c. Billings should list the hours spent on each budget category in the contract, and a request should be made for a progress report that provides a narrative of the progress.

**9. Contracting with small, women-owned, and/or minority-owned firms**

- a. Affirmative steps must be taken to ensure that such firms are given a fair chance to participate in the procurement. To facilitate this, the following steps are suggested to further this goal:
  - i. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises;
  - ii. Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises;
  - iii. Encourage contracting with consortiums of small businesses, minority-owned firms, and women's business enterprises when a contract is too large for one of these firms to handle individually; and
  - iv. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms, and women's business enterprises.