CITY OF COUNCIL BLUFFS, IA PROCUREMENT POLICY FOR FEDERALLY FUNDED PROJECTS

PURPOSE

The purpose of this procurement policy is to ensure that sound business judgement is utilized in all procurement transactions and that supplies, equipment, construction and services are obtained efficiently and economically and in compliance with applicable federal and state law and executive orders and to ensure that all procurement transactions will be conducted in a manner that provides full and open competition. These procedures will ensure that all solicitations incorporate clear and accurate descriptions of the technical requirements for the goods or services being procured. Chapter 26 and Section 331.341 of the Iowa Code will be followed on all applicable purchases. All other appropriate sections of the Iowa Code shall also apply.

APPLICATION

This policy applies to the procurement of all supplies, equipment, and construction and services of and for the City of Council Bluffs (City) that include any federal program funding. In regards to any such federal programs, all procurement will be done in accordance with 2 CFR; Part 200. Chapter 26 and Section 331.341 of the Iowa Code will be followed on all applicable purchases. All other appropriate sections of the Iowa Code shall also apply. When federal requirements conflict with local or state requirements, the federal requirement, or most restrictive requirement will be followed.

POLICY

METHODS OF PROCUREMENT

Procurement under grants shall be made by one of the following methods, as described herein: (a) small purchase procedures; (b) sealed bids (formal advertising); (c) competitive proposals; (d) noncompetitive proposals.

A. Micro-Purchase Procedures 200.320(a)
    i. The acquisition of supplies or serves, the aggregate dollar amount of which does not exceed the micro-purchase threshold - $10,000 (200.67)
    ii. To the extent practicable, must distribute micro-purchases equitably among qualified suppliers
    iii. May be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable
B. Small Purchase Procedures 200.320(b)
    i. Are those relatively simple and informal procurement methods for securing services, supplies, or other property that does not cost more than the simplified acquisition threshold - $250,000 (200.88)
    ii. Price or rate quotations are to be obtained from an “adequate number” of qualified sources
C. Sealed Bidding (formal advertising) 200.320(c)
    i. Lowest priced, responsive, responsible, bidder WINS
    ii. The preferred method for construction when sealed bidding is “feasible”, which is when certain conditions are present

iii. Bids must be solicited from an "adequate number of known suppliers", providing them sufficient response time before date for the opening of bids
iv. Bids will be opened at the time and place prescribed in the invitation for bids
v. Must publicly advertise the invitation for bids
vi. Bids must be opened publicly
vii. Other procedural requirements at 200.320(c)(2)

D. Competitive Proposals 200.320(d)
   i. Used when conditions are not appropriate for the use of sealed bids
   ii. The appropriate method when more than one source is expected to submit an offer and either a fixed-price or cost-reimbursement type contract is awarded
   iii. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with ***price*** and other factors considered
   iv. Requests for proposals ***must be publicized*** and identify all evaluation factors and their relative importance
   v. Proposals must be solicited from an adequate number of qualified sources
   vi. Must have written method for conducting technical evaluations of the proposals received and for selection of the contract
E. Noncompetitive Proposals 200.320(f)
   i. Procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
      a. **One Source**: the item is available only from a single source
      b. **Exigency/Emergency**: an exigency or emergency will not permit a delay resulting from competitive solicitation
      c. **Awarding Agency Approval:** the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity
      d. **Inadequate Competition**: after the solicitation of a number of sources, competition is determined inadequate

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (200.321)

A. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
B. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
F. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e).

CONTRACT PRICING (200.323)

A. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.
B. The City shall perform some form of cost/price analysis for every procurement action, including contract modifications, amendments, or change orders. The City shall make an independent estimate prior to receiving a bid or proposal.
C. The City shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. In determining a fair and reasonable profit, the City must consider the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance and the industry profit rates in the surrounding geographical area.

PROCUREMENT RECORDS

The City shall maintain records sufficient to detail the significant history of a procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
(200.324)

(a) The City must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.
(b) The City must make available upon request, for the Federal awarding agency or pass-through entity preprocurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:
    (1) The City's procurement procedures or operation fails to comply with the procurement standards in this Part;
    (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
    (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
    (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
    (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.
(c) The City is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this Part.
    (1) The City may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
    (2) The City may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the City that it is complying with these standards. The City must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

AWARDED CONTRACTS

A. The City will not award a contract to a party listed as debarred, suspended, or otherwise excluded in the System for Award Management (SAM). www.sam.gov (200.213)
B. Contracts awarded shall contain the applicable contract provisions described in 2 CFR 200.326 and Appendix II to Part 200.
C. The City will maintain written standards of conduct covering conflicts of interest and must provide for disciplinary action to be applied for violations of such standards as defined below.

CONFLICT OF INTEREST

In addition to State of Iowa, and Local codes, applicable to Conflict of Interest, the following policy, pertaining to Federal Funds shall be applicable.

Per 2 CFR Part 200.112 Conflict of Interest

The Federal awarding agency must establish conflict of interest policies for Federal awards. The City must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

And per 2 CFR Part 200.318 (c)(1) General Procurement Standards

The City must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

The officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the City may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the City.

To the extent permitted by federal, state, or local laws or regulations, violations of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against City's officers, employees, or agents.

FRAUD REPORTING POLICY

2 CFR Part 200
200.113 Mandatory disclosures.

The City or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix XII—Award Term and Condition

for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in §200.338 Remedies for noncompliance, including suspension or debarment.

If a City department or employee learns of a violation of federal criminal law involving fraud, bribery, or gratuity potentially affecting a federal grant, the department or employee must report the violation to the Director of Finance.

The above named is/are responsible for reporting the violation to the relevant federal agency or pass-through agency in writing and in a timely manner.

Passed and adopted this _____ day of _____, 2019.

Attest:

_____ _____

Mayor City Clerk