RESOLUTION NO. R-15-24

A RESOLUTION TO AUTHORIZE THE ADOPTION OF A CITY OF COFFEYVILLE COMMUNITY BLOCK GRANT PROGRAM PROCUREMENT PLAN.

BE IT RESOLVED by the Board of Commissioners of the City of Coffeyville, Kansas to hereby adopt a City of Coffeyville Community Block Grant Program Procurement Plan.

ADOPTED THIS 24TH DAY OF FEBRUARY 2015.

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James Falkner, Mayor

ATTEST:

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Cindy Price, City Clerk

APPROVED AS TO FORM AND LEGALITY:

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Paul Kritz, City Attorney

CITY OF COFFEYVILLE

COMMUNITY BLOCK GRANT PROGRAM

PROCUREMENT PLAN

PURPOSE

This plan establishes standards and guidelines and a code of conduct for the procurement of supplies, construction, and services from private businesses, contractors and consultants, specifically for project utilizing federal grant and loan funds.

PROCUREMENT

All recipients of federal grant funds are required to have written procurement procedures. Grantees are also required to have a written Code of Conduct which specifically prohibits elected officials, staff or agents from personally benefiting from CDBG procurements; it must prohibit the solicitation or acceptance of favors or gratuities from contractors or potential contractors; and it must provide sanctions or penalties for violations of the Code of Conduct by either city/county officials, staff or agents, or by contractors or their agents.

All procurements, regardless of dollar amount, must be conducted to provide “maximum open and free competition.” Many times competition can be restricted by organizational conflict of interest or noncompetitive practices among contractors. Grantees should be alert to issues of this nature which may adversely affect procurement practices.

PROCUREMENT PROCEDURES

The State of Kansas Community Block Grant program has elected to adopt Public Law 103-355 as the procurement procedures applicable to the CDBG program. The only exception to adopting PL 103-355 in its entirety is that the maximum dollar allowance under small purchases shall be $25,000 in lieu of the $100,000 allowance under PL 103-355. The procedures outlined below are in accordance with this law. The stricter of the recipient’s procedures or the State’s procedures are applicable to all procurement.

If CDBG funds are used to pay for a product or service, or any part thereof, CDBG procurement procedures apply unless the local procurement policy is stricter. If CDBG funds are not used for any part of a contract, the grantee’s written procurement procedures may apply.

The recipient’s procurement procedures must describe how services or supplies are to be obtained. The procurement policy should address at a minimum the following requirements:

(a) Procurements should be reviewed to avoid unnecessary and duplicate purchases and to ensure costs are "reasonable."
(b) Invitation for bids or requests for proposals must be clearly written and describe the technical requirements of the equipment or services.
(c) Positive effort must be made to use small, minority and/or female-owned businesses.
(d) The method of contracting (fixed price, cost plus fixed fee, purchase orders, etc.) should be appropriate. Cost plus percentage of cost contracts must be specifically prohibited if CDBG funds are involved in a project.

Four methods of procurement are allowed by PL 103-355: small purchases; competitive sealed bids; competitive negotiations; and noncompetitive negotiations.

A. Small Purchases: Small purchases is a relatively simple and informal method used where goods or services do not cost in the aggregate more than $25,000.

(i) Price or rate quotations should be obtained from an adequate number of qualified sources (generally at least three sources). If the dollar amount is less than $500, phone solicitation is allowed.
(ii) Documentation regarding the business contacted and the prices quoted should be maintained.
(iii) Written documentation regarding basis for selection and cost should be maintained.
(iv) Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

B. Competitive Sealed Bids: Competitive sealed bids are initiated by publishing an Invitation for Bids (IFB) when the cost is estimated to be over $25,000.

(i) The IFB is used when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost.
(ii) All bids received must be tabulated and reviewed according to the written criteria given to prospective bidders.
(iii) The contract awarded must be firm-fixed-price contract (lump sum or unit price).
(iv) Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required, after confirming the contractor is not on the Federal debarred list).

C. Competitive Negotiations: Competitive negotiations are initiated by publishing a Request for Proposals (RFP) or a Request for Qualifications (RFQ). Although publishing is not required, it may be used if an adequate number of service providers are available in the circulation area. At a minimum, all qualified firms should be notified. The RFP is used when price is a factor in selection; the RFQ is used when price is considered after selection (generally for architectural services, engineering services).

(i) In both the RFP and RFQ, the services to be procured are clearly defined, as are the factors to be used in evaluation and selection.
(ii) All proposals received are to be reviewed according to the written criteria given to prospective bidders and the review should be in writing.
(iii) For RFQ's, an invitation is made to one or more respondents to negotiate a price or fee.
(iv) For both RFP's and RFQ's, selection is made on the basis of the most responsible offer or price and other factors considered.
(v) Preparation and signing of a contract formalized a scope of work and the terms of compensation is required.

D. Non-Competitive Negotiations: Non-Competitive negotiations can be used only when: (1) the use of competitive negotiations is not feasible, such as only one supplier, (2) there is some public emergency, or (3) the results of the competitive negotiations are inadequate.

(i) Negotiations are conducted with the selected company regarding a scope of work and price.
(ii) Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

MAINTAINING PROCUREMENT FILES

1. Grantee must maintain a separate file for each procurement in excess of $2,000. All files should include copies of advertisements, a list of notified firms, RFP/RFQ, a list of where bid packages were sent, copies of all bids or proposals received, and a written review of the proposals including cost data and the reasons for your selection. If a contract is noncompetitively negotiated, the file should include your justification for negotiation. The file must include cost and price detail documents and written statements explaining the basis of selection. All unsuccessful bidders must be notified in writing, and files should contain copies of letters to that effect. **The primary requirement is that the process of securing services with CDBG funds is open, competitive, and well documented.**

2. After response of either statements of qualifications from an RFQ or proposals in response to an RFP, the review process can begin according to the established selection criteria.

The review process should be uniform and well documented. The preferred method is that the review be conducted by a committee composed of at least three people who have technical knowledge of the type of project you are considering. However, these reviewers must not have apparent conflicts of interest with any of the firms or individuals under review. Examples are family relationships, close friendships, or business dealings. Some of the evaluation criteria to be considered includes:

(a) Specialized experience or technical expertise of the firm and its personnel in connection with the type of services to be provided and complexity of the project.
(b) Past record of performance on contracts with the locality and other clients, including quality of work, timeliness and cost control.
(c) Capacity of firm to perform the work within time limitation, taking into consideration the current and planned work load of the firm.
(d) Familiarity of the firm with the type of problems applicable to the project.

The relative importance of each of these factors can be determined beforehand by assigning value to each (for example, specialized experience may be assigned 40 points out of a total possible 100 points). Evaluation consideration for local firms can be established if familiarity with local conditions is an important element for a successful project. Selection criteria should be shared with all prospective bidders.

3. Once a firm is chosen and the basis of selection is documented along with the reasonability of cost, you may start the preparation of a contract with the successful individual or firm. The contract must include the following provisions:

(a) General Administrative Provisions
  (i) Effective date of contract.
  (ii) Names and addresses of the locality and firm.
  (iii) Names of representatives of locality and firm who will act as liaison for administration of the contract.
  (iv) Citation of the authority of the city/county under which the contract is entered into and source of funds.
  (v) Conditions and terms under which contract may be terminated by either party, both termination for cause and termination for convenience, and remedies for violation/breach of contract.

PROCURING PROFESSIONAL AND PERSONAL SERVICES CONTRACTS

NOTE: Grantees are reminded that an engineering firm cannot administer a CDBG grant in excess of $100,000. For those grants over $100,000, no engineering firm or any principal or employee thereof can perform both administrative and engineering services on a grant, regardless of the source of payment of either.

The grantee has the option of administering the CDBG program themselves, contracting with the local council of governments or regional planning commission (COG or RPC), or hiring a private consultant. The grantee is reminded that all applicable procurement procedures must be followed if the consultant is paid with CDBG funds. **For all grants awarded after July 1, 1999, the administrator must be certified through the CDBG Administrator's Certification process. KDOC&H should be contacted if verification is needed.**

Prior to executing an administrative contract, the grantee shall review its content to ensure that the required provisions are included.

It is recommended that the competitive negotiation method be used to procure professional services.

(a) A Request for Proposals (RFP) or a Request for Qualifications (RFQ) is issued. The RFP is used when price is a factor in selection; the RFQ is used when price is considered after

selection (generally only for engineering/architectural services). The first step in both processes is to determine which services you need. The services and the factors to be used in evaluation and selection must be clearly defined.

(b) If statement of qualifications are used, each must be reviewed and ranked according to previously established selection criteria. This review must be documented in writing. Upon determination of the best statements, an invitation is made to one or more respondents to negotiate a price or fee. The reason the firm is chosen and that the price established is reasonable must be documented.

(c) If an RFP is issued, it should specify the scope of services to be provided and type of contract to be used: cost reimbursement, fixed price, or per diem contract. Cost plus a percentage of cost contracts cannot be used.

(d) The RFP should also specify that cost and price data is required to support the proposed cost, state anticipated start and completion dates, and list evaluation criteria that will be used in ranking proposals. Additionally, any materials such as reports, maps, and site plans to assist interested firms in preparing responsive proposals should be provided. If the project is complicated a pre-bid conference can be held with qualified and interested parties to discuss the project.

(e) The RFP or RFQ should also include:

(1) Scope of services, which includes a detailed description of extent and character of the work to be performed.

(2) Time for performance and completion of contract services, including project milestones, if any.

(3) Specification of materials or other services to be provided by both parties, e.g., maps, reports, printing, etc.

(4) Method of Compensation, amount of contract, and provisions for compensation for services including fee and/or payment schedules and <u>specification of maximum amount payable under contract</u>.

(f) State and Federal Standard Provisions.

All professional contracts must state that the contracting firm will abide by the laws and regulations described in the “Applicable Laws and Regulations” sections of the Kansas Small Cities CDBG Program Guidelines.

PROCURING OTHER TYPES OF CONTRACTS (CONTRACTORS)

When securing contract services other than personal or professional, it is recommended that the following steps be taken:

1. Written Procurement Procedures

(a) The competitive sealed bid is the method generally used to procure materials, supplies, equipment or contractor’s services other than personal or professional. Bidding should be employed for contracts over $25,000 when specifications for the goods or services to be procured can be prepared and the primary basis for award is cost.

(b) An Invitation for Bids (IFB) notice for all procurements requiring sealed bids is issued. This notice should be published at least once in at least one official newspaper of general circulation within the community thirty days before bid date or an adequate time to allow bid preparation. Bids from responsible prospective bidders should be solicited by sending them a copy of the notice. If the project is complicated, a pre-bid conference may be held with qualified and interested parties to discuss the project.

(c) The IFB should include a general description of the goods or services to be procured, the location where bids or specifications may be secured, the time and place for opening bids, and whether the bid award will be made on the lowest bid price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be utilized must be stated in the IFB.

The newspaper notice must also contain language which calls to the attention of bidders all applicable requirements which must be complied with such as: Section 3 of the 1968 Housing Act, Section 109 of the 1984 Housing and Community Development Act, the Civil Rights Act of 1964, and Executive Order 11246.

(d) The sealed bids should be opened in public at the time and place stated in the IFB and tabulated at that time.

SELECTION PROCEDURES

After bids are received, the review process is begun according to the established criteria. In addition to price, the following bid evaluation criteria may be used with varying weights dependent upon the particular procurement to be made:

(a) Character, integrity, reputation, judgment and experience of the firm;
(b) Ability of the vendor to provide the material or service promptly or within the time specified;
(c) Quality of performance by the vendor on previous contracts, orders or services; and
(d) Ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.

The criteria upon which a bid will be evaluated should be established by a review committee. The review should be thorough, uniform and well documented. The review committee will make a decision as to whom the contract should be awarded. <u>All unsuccessful bidders must be informed of the bid award</u>.

The estimated costs should be analyzed to determine whether the price of the services required is reasonable. Comparative prices in the area for similar services could be used in the analysis. Professional organizations, boards of trade and unions could be consulted for assistance. Costs plus a percentage of cost and percentage of construction costs method of contracting shall not be used.

All procurement transactions must be documented. Regardless of the method of procurement chosen, grantees must develop and retain records to demonstrate their reasons for choosing the method of procurement, consultant qualifications, contract specifications or scope of work, and the basis for selection of scope of work and the basis for selection or rejection of the contractor. Contract records must also document the basis for the contract price, including the cost analysis used to determine the contract price.

SPECIAL CIRCUMSTANCES

When a locality receives only one response to a competitive solicitation, the solicitation should be reviewed to determine whether it was unduly restrictive or geared to a particular contractor and must be submitted to The Kansas Department of Commerce for approval prior to awarding the contract. The locality should document the file to show that such a review was done and indicate any steps taken to ensure that further solicitation do not preclude competition.

The community may cancel an Invitation for Bids or reject all bids if it is determined in writing that it is in the best interest of the city.

CONTRACT PREPARATIONS

(a) Once a firm is chosen, preparation of a contract with the successful individual or firm may be carried out. The contract must include all of the previously mentioned provisions: Scope of services, contract amount, effective date of contract, method of compensation, and the State and Federal standards described in the “Applicable Laws and Regulations” Section of the CDBG Program Guidelines.
(b) All applicable Labor Standards requirements should be reviewed and administered. (See Labor Standards section).
(c) The statement of work should be prepared by the grantee in accordance with procurement procedures. It must describe as precisely as possible the tasks to be completed, specify

timetables for completion, identify the products and/or services to be delivered and stipulate the method of payment. The statement of work could be used as a tool to measure performance, but only if the desired outcomes are clearly specified in measurable products.

(d) Applicable federal regulations are included herein.

CODE OF CONDUCT

(a) No employee, officer or agent of the City shall participate in the selection or in the award of a contract if a conflict of interest, real or apparent, **may** be involved. This requirement also applies to members of an employee's immediate family, partners of employees and any organization which employs or is about to employ any of the above, or has a financial or other interest in the firm selected for award.

(b) Officers, employees and agents of the City shall not solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

(c) Any violation of the above noted standards of conduct by a contractor may be considered as reason to exclude a contractor from all current and future transactions and agreements with the City. Any violation of the above-noted standards of conduct by an officer, employee or agent of the City will result in termination of employment or termination of any agreement between an agent and the City. Further penalties may be imposed as prescribed by State Law, appropriate for the violations committed.

The Governing Body of the City of COFFEYVILLE hereby adopts the above procurement policies to conform with the Kansas Department of Commerce procurement guidelines, and the City of COFFEYVILLE hereby assures the Kansas Department of Commerce that it will abide by these procurement guidelines in reference to Community Development Block Grant funding.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF COFFEYVILLE, THIS____ DAY OF _____ , 2015.

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Mayor

ATTEST:

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City Clerk

SEAL