

Resolution 2009-21

Lincoln County hereby adopts procurement procedures, for Community Development Block Grant Funds only, in accordance with the State of Kansas Community Block Grant program, which has elected to adopt Public Law 103-355 as the procurement procedures applicable to the CDBG program. The only exception to adopting Public Law 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.

I. PROCUREMENT PROCEDURES

1. Small Purchases - Four methods of procurement are allowed by PL 103-355: small purchases; competitive sealed bids; competitive negotiations; and noncompetitive negotiations. Bonding requirements for contracts are included herein. Small Purchases is a relatively simple and informal method used where goods or services do not cost in the aggregate of more than \$25,000.
 - a. Price or rate quotations should be obtained in writing from an adequate number of qualified sources (generally at least three sources). Written specifications should be provided to assure all responders are bidding on the same product or service. If the dollar amount is less than \$500, phone solicitation is allowed. A public bid opening may be held on a small purchase, i.e., housing rehabilitation, if the situation warrants it.
 - b. Documentation regarding the businesses contacted and the prices submitted should be maintained.
 - c. Written documentation regarding basis for selection and cost should be maintained.
 - d. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required for all construction contracts over \$2,000.
2. 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. Adequate time should be allowed for preparation of bids.
 - a. Detailed specifications for the goods or services to be procured must be prepared. The primary basis for award is cost.
 - b. All bids received must be tabulated and reviewed according to the written criteria given to prospective bidders.
 - c. The contract awarded must be a firm, fixed-price contract (lump sum or unit price). **The negotiations with the low bidder are not allowable under the CDBG programs. (This has always been the CDBG policy.)**
 - d. 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 (see Labor Standards Section).
 - e. All unsuccessful bidders must be notified in writing.
3. Competitive Negotiations - Competitive negotiations are initiated by making public a Request for Proposals (RFP) or a Request for Qualifications (RFQ). Although newspaper publication 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 (this is usually applicable only for architectural and engineering services).

- a. 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. A written basis of selection must be prepared.
 - b. All proposals received are to be reviewed according to the written criteria given to prospective bidders and the review should be in writing, i.e., basis of selection must be documented.
 - c. For RFQ's, an invitation is made to one or more respondents to negotiate a price or fee.
 - d. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.
 - e. All unsuccessful bidders must be notified in writing
4. 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.
- a. Negotiations are conducted with the selected company regarding a scope of work and price.
 - b. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.

Lincoln County understands that Commerce must approve all types of procurement prior to award when only one response is received from the procurement efforts or prior to use of non-competitive negotiation.

II. PROCURING PROFESSIONAL AND PERSONAL SERVICES CONTRACTS

No engineering or architectural firm or any principal or employee thereof can perform both administrative and engineering/architectural services on a grant, regardless of the source of payment of either.

Engineering, architectural or administrative services may not be eliminated as a line item activity in the project budget form for purposes of circumventing this policy. The grantee has the option of administering the CDBG program themselves, contracting with the regional planning commission 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 with the exception of the four regional planning commissions within the State. Administrators for all CDBG awards must be certified through the CDBG Administrators' Certification process. Commerce 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.

1. Procedure – The competitive negotiation method is the normal method used to procure professional services.

- 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. No criteria may be established which would eliminate specific vendors.

- 3. Contract Revisions – Once a firm is chosen and the basis of selection is documented along with the reasonability of cost, the preparation of a contract with the successful individual or firm may be completed. The contract must include the following general administrative provisions:
 - a. Effective date of contract.
 - b. Names and addresses of the locality and firm.
 - c. Names of representatives of locality and firm who will act as liaison for administration of the contract.
 - d. Citation of the authority of the city/county under which the contract is entered into and source of funds.
 - e. 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.

III. COMPETITIVE BIDDING

When a cost estimate for purchase of supplies or equipment or for construction is in excess of \$25,000, the Competitive Bidding process is applicable.

- 1. Procedure
 - a. 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 30 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.
 - b. The IFB should include a general description of the goods or services to be procured, the location where bids or specifications may be secured, and the time and place for opening bids. Bid award must be made to the lowest responsible bidder.

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.

- c. The sealed bids should be opened in public at the time and place stated in the IFB and tabulated at that time.
2. Review Process – The following evaluation criteria may be used with varying weights to determine if the bidder is a responsible bidder.
- 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.
 - d. Ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.
 - e. The grantee has the responsibility to prove or disapprove the “responsible” bidder criteria. If a lowest bidder is rejected, he/she must be notified in writing and the reason for rejection of his/her low bid fully stated. Reasons for rejection must be documented.

The review should be thorough, uniform and well documented. Once a contract has been awarded, all unsuccessful bidders must be informed in writing of the bid award.

When a locality receives only one response to any procurement solicitation, including competitive bidding, 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 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.

If it is determined that a rebid is needed for all or part of the bid schedule, the grantee and/or professional should contact the field representative of the area for consultation and guidance.

3. Contract Provisions

- 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 Application General Requirements.
- 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.
 - e. Bonding requirements are included herein to assure awareness of requirements (see Exhibit III – Procurement).
4. Maintaining Procurement Files – Grantees 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 basis of selection. If a contract is non-competitively negotiated, the file should include Commerce’s approval for award. The file must always include a cost and price detail documentation statement 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.

IN WITNESS WHEREOF, we set our signatures this 31st day of August, 2009.

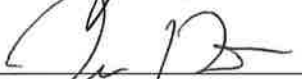
Lincoln County Board of Commissioners



Steven R. Errebo, Chairman



Al Joe Wallace, Vice-Chairman



Terry L. Finch, Member



Attest:


Dawn M. Harlow, County Clerk