

## CHAPTER V

# PROCUREMENT STANDARDS

### OVERVIEW

The primary goal of the rules and regulations governing procurement is to ensure open and free competition for federally assisted projects. The various procurement methods outlined in this chapter all attempt to promote open and free competition for contracts. Open and free competition by nature mandates contracting opportunity is equal opportunity. The goal of the State CDBG Program is to ensure that small firms along with women and minority owned firms have an equal opportunity to participate in contract opportunities provided by the program. Requirements related to Section 3 and Minority and Women Business Enterprise (MBE/WBE) participation are in place to ensure this opportunity.

The Missouri CDBG Program follows the Missouri procurement process codified in Missouri Revised Statutes Chapter 34 as required by law. The Missouri CDBG program requires city and county grantees and their sub-recipients to follow the procurement policies developed and published by the CDBG program, as outlined in this chapter. Both of the State of Missouri procurement policies codified in Missouri Revised Statutes Chapter 34 and the procurement policies developed by the CDBG Program for grantees and sub-recipients meet the requirements of 24 CFR Part 570.489(g).

Communities may use their own procurement procedures, which reflect applicable state and local laws and regulations, **provided** that the procurement conforms to the State CDBG Program's procurement policies and standards outlined in this chapter. In most cases, the State CDBG Program's procurement policy is stricter and the community must follow the procedures outlined in this chapter for all phases of the CDBG funded project.

If a community does not have a written procurement policy, the State CDBG policy must be adopted for all phases of the CDBG funded project. It is required that communities adopt procurement policies that satisfy the needs of their particular community when using their own local money. The Missouri Municipal League can assist city governments with this task.

*The CDBG grant agreement requires the community to adhere with the CDBG conflict of interest policy. The policy is stated in full in this chapter. If the community does not have its own conflict of interest policy, one must be adopted that defines conflicts and provides for employee standards of conduct. This policy may be incorporated into the local procurement policy. **Conflict of interest cannot be corrected after it occurs. Recognize it and take action ahead of time.***

### PROCUREMENT METHODS

The State CDBG Program allows five methods of procurement: micro-purchase, small purchase, competitive sealed bids, procurement by competitive proposals, and procurement by noncompetitive proposals. Each of these methods is described below. Again, if the community has their own written procurement procedures, the stricter of the two methods (local or State) shall be followed. **CDBG must approve the method of procurement prior to contract award where fewer than three qualifications/proposals/bids have been obtained.**

*The lowest and best bidder must be selected to provide the required supplies, equipment, or services, with the exception of engineering and architectural services. Only A/E professional services may use factors other than price as a selection factor. The lowest, most responsible and responsive bidder must be selected for construction contracts. **The community must fully understand the definition of the terms "lowest and best bidder" and "lowest, most responsible and responsive bidder."** They are often confused and interchanged, but are very different.*

- “Lowest and best” is typically used in non-construction, competitive bidding, such as equipment, professional services, and supplies. An evaluation is completed that weighs the amount of the bid with factors such as ability to perform, timeliness, character and reputation, quality of past performance, compliance with laws, quality and availability, future maintenance and service, and compliance with bid specifications. A community may “score” bidders based on weighting that reflects which criteria is most important to them. An example is included in this chapter. The top-scoring candidate may not necessarily be the lowest bidder. However, communities that select other than the lowest bidder must provide their selection criteria to CDBG. There must be written documentation to support the selection.
- “Lowest, most responsible and responsive” is typically used for competitive construction contracts. **Lowest** refers to bid amount. **Responsive** refers to a valid and correct bid. Examples of responsiveness include bids turned in prior to the deadline, bid forms filled out correctly, bids containing all required information (bonds), etc. A community may discard a non-responsive construction bid. **Responsible** refers to financial standing, skill, facilities, capacity, experience, previous work record, or any default within the last 12-month period. Discarding a construction contractor **solely** based upon the factors of “responsibility” demands much more documentation and requires the written recommendation of the community’s own attorney.

### 1. Micro-Purchase

Procurement by micro-purchase is the procurement of supplies or services of which the aggregate dollar amount does not exceed \$3,000 (or \$2,000 in the case of procurement for construction, subject to the Davis-Bacon Act). To the extent practicable, the grantee must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the grantee considers the price to be reasonable. Minority/Women owned firms and Section 3/DBE businesses are to be contacted, whenever they are potential sources. More information on compliance with MBE/WBE requirements and a directory of MBE/WBE vendors may be found at Missouri Office of Equal Opportunity (<http://oeo.mo.gov>). Section 3 requirements are further explained in the Civil Rights Chapter.

### 2. Small Purchase

Relatively simple and informal procurement method used for securing services, supplies or other property that is estimated to cost less than \$25,000 (current State of Missouri small purchase procurement threshold), in the aggregate. If small purchase procurement is used, price or rate quotations will be obtained from an adequate number of qualified sources. County grantees must also formally advertise per RSMo Section 50.660. Minority/Women owned firms and Section 3/DBE businesses are to be solicited. More information on compliance with MBE/WBE requirements and a directory of MBE/WBE vendors may be found at Missouri Office of Equal Opportunity (<http://oeo.mo.gov>). Section 3 requirements are further explained in the Civil Rights Chapter.

### 3. Competitive Sealed Bids

Competitive Sealed Bids (formal advertising) are used when the goods or services are expected to be \$25,000 or more in cost. Competitive sealed bidding requires publicly solicited sealed bids and a firm-fixed price lump sum or unit price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the advertisement for bid, is lowest in price.

To facilitate competitive bidding, a list of prospective contractors for each type of activity should be assembled. The list should include reputable firms or persons who have a good performance record, including minority and project area contractors. Prospective contractors from the appropriate category should be invited to bid.

- a. The advertisement for bid must be publicly advertised, in print, and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.

- b. The State CDBG Program requires the advertisement to be publicly advertised a minimum of once a week for two consecutive weeks (14 days) to allow sufficient time prior to the opening of bids. Grantees should be aware of other funding agencies' requirements. Should another funding agency require a longer period, the stricter requirement should be followed. Should the grantee's (or subgrantee) procurement policy have stricter requirements, the stricter should be followed. The bid opening must be held at least a week after the final advertisement. Advertisement in Plan Rooms must be documented.
- c. The advertisement, including specifications and attachments, must clearly describe the goods or scope of services required, thus permitting bidders to be responsive to the advertisement.
- d. Minority/Women owned firms and Section 3/DBE businesses are to be solicited. More information on compliance with MBE/WBE requirements and a directory of MBE/WBE vendors may be found at Missouri Office of Equal Opportunity (<http://oeo.mo.gov>). Section 3 requirements are further explained in the Civil Rights Chapter.
- e. All bids must be opened publicly at the time and place stated in the advertisement for bid.
- f. A lump-sum price contract award must be made in writing to the responsive bidder whose bid is lowest, most responsible and responsive.
- g. CDBG, HUD, and the Department of Labor maintain a list of excluded bidders, including SAM.gov. Recipients are required to contact CDBG to ensure that prospective contractors and supply-only contracts are eligible. (See the Contract Management Chapter.)
- h. All unsuccessful bidders must be notified in writing if not documented as present at the bid opening.
- i. Execute contract.

**4. Procurement by Competitive Proposals (Request for Proposals (RFP's)/Request for Qualifications (RFQ's))**

Competitive Proposals are generally used when sealed bids are not appropriate. Regulation states RFP's/RFQ's are to be publicized and identify all evaluation factors and their relative importance. Proposals will be solicited from an adequate number of qualified sources, and there will be a method for conducting technical evaluations of the proposals received and for selecting awardees. Awards are made to the responsible firms whose proposal is most advantageous to the program, with price and other factors considered.

- a. The Competitive Proposal process is most typically used for the procurement of professional services, including, but not limited to, administration, architecture, engineering, asbestos inspection, demolition inspection, and title search services.
- b. Procurement for professional services need not be formally advertised, unless RSMo Section 50.660 is applicable. However, there must be a competitive procurement process wherein a number of qualified professionals are invited to submit proposals.
- c. Solicitation of professional administration services must include all persons on the CDBG Administration List and the Regional Planning Commission located in the project area.
- d. Cities and counties which are member organizations of a regional planning commission (RPC) or council of governments (COG) may contract directly with that RPC or COG if both of the following conditions are met:
  - a. The city or county, as the CDBG grantee, must be a dues-paying member in good standing of the RPC or COG for a minimum of 12 consecutive months prior to entering into the administration contract, and must be able to provide documentation of its membership in good standing.
  - b. The CDBG application was prepared either by the city/county itself, or by the RPC or COG. If another third-party entity assisted the city/county with the application preparation, grant administration must then be procured in accordance with CDBG guidelines.
- e. City and county grantees are not required to use the RPC/COG, and may elect to procure for grant administration even if both of the above conditions are met. This is simply an option that city and county grantees may use.

- f. Price is not used as a selection factor in procurement of professional architectural or engineering (A/E) services. A/E firms may also be procured under qualifications for surveying and other services that require an A/E degree. After the lead qualifying firm is selected, then a contract price may be negotiated and agreed upon. If there is no such agreement, that A/E firm may be eliminated and discussions may begin with the second most qualified firm. Price is still important to the project. It is just not included in the evaluation phase.
- g. For professional service firms other than A/E, using the Request for Proposals method, price is a component of the evaluation phase. In the event of including solicitation for a grant writer using the same RFP for grant administration solicitation, please identify that the proposal must clearly separate the cost associated with grant preparation and administration services.
- h. The Request for Proposals method may be used for other types of professional service providers. Price must be a factor when selecting professional service firms other than A/E.
- i. Minority/Women owned firms and Section 3/DBE businesses are to be solicited. More information on compliance with MBE/WBE requirements and a directory of MBE/WBE vendors may be found at Missouri Office of Equal Opportunity (<http://oeo.mo.gov>). Section 3 requirements are further explained in the Civil Rights Chapter.
- j. All proposals received must be evaluated. A written method for evaluation, which includes the significant factors used to determine the contract selection award, must be prepared and publicized along with the Request for Proposals. Contact CDBG in the event of receiving less than three proposals.
- k. CDBG, HUD, and the Department of Labor maintain a list of excluded bidders, including SAM.gov. Before any contract is awarded, recipients are required to contact CDBG to ensure that prospective individuals/firms are eligible for contract award. (See the Contract Management Chapter.)
- l. If professional services are paid from local funds, the grantee may select the firm of choice adhering to state statutes and local purchasing policy.
- m. Applicants must comply with state law, RSMo Sections 8.285-8.291, in the procurement of architectural, land surveying, or engineering services, unless the city/county has its own procedure that is stricter.
- n. Only fixed price (a specified price to be paid when the items or services are delivered and accepted) may be awarded.
- o. Please note that CDBG funds cannot be used to pay for services dated prior to the date of the funding approval with the exception of environmental review services procured as part of the grant administration contract.
- p. The basis for selection must be documented in writing for grant files.
- q. All unsuccessful bidders must be notified in writing.
- r. Execute contract.

## **5. Procurement by Noncompetitive Proposals**

A noncompetitive proposal is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. The mere fact that a contractor is performing other consultant services for the grantee is not in itself an adequate justification for a non-competitive proposal award. Circumstances under which a contract may be awarded by noncompetitive proposals are limited to the following.

- a. After solicitation from a number of sources, competition is determined inadequate.
- b. The items or services required are available only from one source.
- c. The State CDBG Program authorizes the noncompetitive method.
- d. A public emergency is such that the urgency will not permit a delay beyond the time needed to employ one of the other methods described above.

## **GENERAL PROCUREMENT PROCEDURES**

Recipients must maintain records that document the rationale for the method used for procurement, selection of the contract type, contractor selection or rejection, and the basis for the selection including cost or price. In addition, all contracts, other than micro-purchases and small purchases, shall contain provisions, which describe administrative, contractual, or legal remedies when contractors violate contract terms and provide for appropriate damages. The grantee is responsible to solicit for grant administration services. It is a conflict of interest for a grant administrator to help the grantee with the procurement of grant administration if they intend to submit a proposal. This includes developing the Request for Proposals and handling the solicitation process. The grant administrator may provide the grantee with the procurement chapter from the CDBG Administration Manual and provide samples included in the procurement chapter. The grant administrator may also suggest that the grantee contact the State CDBG program for technical assistance.

### **Prohibited Forms of Restrictive Competition**

In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bid or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business
2. Requiring unnecessary experience and excessive bonding
3. Noncompetitive pricing practices between firms or between affiliated companies
4. Noncompetitive contracts to consultants that are on retainer contracts
5. Organization conflicts of interest
6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement
7. Any arbitrary action in the procurement process

### **Bonding and Insurance**

In carrying out CDBG activities (except professional services contracts), CDBG recipients must establish bonding and insurance requirements that ensure completion of CDBG funded construction contracts in the event of contractor or subcontractor default.

For contracts exceeding \$25,000, recipients must require a bid guarantee from each bidder equivalent to 5% of the bid price. This may be secured through a bid bond or a certified check. Any contract with an amount over \$25,000 is required to produce documentation of performance bonding within two weeks of contract award. The contractor will obtain a performance bond for 100% of the contract price to ensure completion of the contract. Any contract with an amount over \$50,000 requires the contractor to produce documentation of a payment bond for 100% of the contract price to ensure payment to all persons supplying labor and materials.

In the event of the surety performing under a takeover agreement, the bonding company must produce evidence of participation in the E-Verify program.

Grantees are free to use their requirements relating to bid guarantees, performance bonds, and payment bonds for contracts of \$25,000 or less in value.

An irrevocable letter of credit from a federally insured financial institution may be used for contracts of less than \$25,000. The irrevocable letter of credit cannot have an expiration date and must remain in effect for the duration of the federally funded project.

## Timeline for Construction Procurement

1. Determine that the Authority to Use Grant Funds (AUGF) has been issued for the activity or project related to the proposed construction contract. (See the Environmental Review Chapter.)
2. Prepare the specifications. CDBG bid terms and conditions and contractor certifications are to be included in all bid documents and construction contracts. Please refer to the Contract Management Chapter of this Manual.
3. Secure applicable Davis-Bacon wage rate decisions from CDBG, as discussed in the Labor Standards Chapter. Review wage decisions from CDBG to determine if any additional classifications are necessary. Contact CDBG 10 days prior to bid opening to verify that the Federal wage decision has not been changed. If changes have been made, send them as an addendum to all contractors who received the bid package.
4. Include the correct goals of the Federal Equal Opportunity Construction Contract Specifications for minorities and females in the bid document and contracts. These requirements are governed by the Federal Register regulations of October 29, 1978 and September 7, 1979. Minority participation goals are detailed in the September 7, 1979 regulations. These goals are applicable to all projects of the contractor, not just the project(s) funded in whole or in part by CDBG funds. Therefore, each construction craft and trade in the contractor's work force, which is required in an area covered by the goals and timetables, falls under these provisions. Recipients must ensure that bid documents incorporate these goals.
5. Include all items listed in the Contract Management Chapter in all specifications for bidding and contracting.
6. Recipients' attorneys are required to review the bid documents for liability purposes.
7. **Publish Request for Bids in a newspaper** of general circulation once a week for **two consecutive weeks** (14 days) prior to bid opening. Grantees must directly solicit minority and women-owned firms, as well as Section 3/DBE firms. A longer advertising period may be necessary for more complex projects to allow bidders more time to prepare their proposals. Retain a newspaper copy and/or affidavit of each advertisement in the CDBG Contract Management file. Exceptions to the publishing requirement as stated in this section must be preapproved by CDBG.
8. Addendum Procedure: If the owner or engineer finds that changes or additions to the bid packet must be made prior to the bid deadline date, an addendum must be executed. The addendum must spell out the change or addition and must be distributed to all interested bidders. This action must not take place later than 72 hours prior to the bid submission deadline. If this time period is not possible, the addendum may be distributed and the deadline must be delayed exactly one week. All bidders obtaining bid documents must be made aware of all addenda in order not to provide an unfair advantage in the procurement procedures.
9. Maintain a log of bidders who were sent or obtained bid documents. All bids received during the bidding period should be logged with the name of the bidder and the time and date of receipt. No bid may be accepted if it is late.
10. Hold a public meeting to open bids. All bids must be read aloud during this meeting. Minutes of the meeting must be maintained to document the project, the time and date of bid opening, and the bidders and bid amounts in order of opening.
11. Review all bids to determine if they are legally and technically responsive. Bidders must be evaluated as to their ability to perform as previously defined. The contract must be awarded to the **lowest, most responsible and responsive bidder**. If all the bids exceed the budgeted amount, reevaluate the specifications to determine whether one aspect of the project was inaccurately described. In this situation, it may be necessary to reject all bids.
12. Cost plus a percentage of cost and percentage of construction cost method of contracting are prohibited. **All contract fees shall be based upon a unit price or "cost-plus-fixed-fee."** All contracts must include a total dollar amount.

13. Negotiation with bidders prior to bid opening is prohibited. **Negotiation with bidders when bids exceed available funding:** If the bid from the lowest responsible and fully responsive bidder exceeds available funds, the grantee may negotiate the quantities of unit price bid items to be installed with such bidder to obtain a contract price within available funds. "Available funds" are those budgeted by the grantee for the requirement and designated as such prior to the issuance of the Advertisement for Bid. Negotiation on the part of the bidder is strictly voluntary. To ensure fair and open competition among bidders, the State of Missouri CDBG program views negotiation to be defined as reducing contract units at the bid unit prices and **should not exceed 25% of the total contract bid amount**. It should be confirmed that any reduction of contract units would not result in a change of the low bidder. If the negotiations to reduce the quantities of unit price items should result in a change of the low bidder then all bids should be rejected and the project design should be modified to reduce costs and the project should be re-bid.
14. The Grantee can either reject all bids or provide needed funds from other sources. Prior to the bid process, the Grantee can take action to help mitigate problems that arise from bids that exceed allowable funds. If the Grantee has reason to believe that available funds will be inadequate for the full scope of proposed work, it can request deductible or add-on alternatives in the bid process. When deductible or add-on alternatives are requested, the bid document must specify the method and order in which alternatives will be applied in determining the low bid. Whenever estimated costs are very close to the amount of available funds or the cost estimates are based on roughly comparable projects, the deductible alternative approach is very useful. It can eliminate the need to respecify the bid package and repeat the entire bid process with unavoidable delays in the project. Do not use deductible alternatives that reduce the original scope of the project that was funded.
15. Once all bids have been received, **references should be checked**. The only way for a community to secure good information about how a person or firm performed similar duties is to call the other cities and counties and ask their opinions.
16. Prior to awarding the contract, the Grantee must obtain verification of contractor eligibility from CDBG. Recipients should request a written letter confirming eligibility from CDBG. This process is referred to as a debar check. CDBG will check for an active registration (required for all contracts over \$25,000) and any active exclusions on SAM.gov. In addition, CDBG will verify that the contractor is registered with the Missouri Secretary of State, not debarred by the Missouri Office of Administration, and has a valid certificate to do business in the State of Missouri. You must also check with CDBG to ensure that the bonding company that the contractor is using to provide the payment and performance bonds is on the Department of the Treasury's Listing of Approved Sureties. It is vital that you furnish the correct spelling and the exact name of the firm(s) for all of the above.
17. Award the contract. The contract must be awarded to the lowest, most responsible and responsive bidder. If the contract is awarded to other than the lowest bidder, a written statement documenting valid reasons why the lowest bidder(s) was not selected must be prepared and submitted to CDBG for approval prior to contract award. Ensure that all compliance provisions and environmental clearances have been met before awarding the contract.
18. Send a Start of Construction Notice to CDBG within ten (10) days of the contract award. This notice is included in the Labor Standards Chapter.
19. A pre-construction conference must be held to acquaint the contractor with Federal and Missouri requirements such as the Labor Standards Provisions, Equal Employment Opportunity Requirements, and Section 3. Requirements for weekly wage records and employee interviews should be specifically addressed at this conference. It is also appropriate to brief the contractor on how payments will be processed, what forms are to be used, and how the CDBG office will monitor financial, program, and contract compliance. A pre-construction conference report should be prepared to document the subject(s) discussed at the meeting and placed in the Contract Management file.

20. Send a Notice to Proceed to the contractor. This document officially notifies the contractor that construction may begin.
21. A copy of the Certificate for Acceptance and Final Payment must be obtained from the project engineer to ensure completion of the project. This certificate must cover 100% of the work included in the project. Ten percent of the construction inspection funds will be withheld until a Certificate for Acceptance and Final Payment has been issued.

## DED CONFLICT OF INTEREST POLICY

The Community Development Block Grant Program, Department of Economic Development, State of Missouri, developed a conflict of interest policy in August 1983, relating to participation in contract selection, award, and administration. Since that time, this issue has arisen in other areas of the program. The State CDBG program is similar to 2 CFR 200.318(c) of the Federal Regulations (conflict of interest) for the Community Development Block Grant Program.

### Standard of Conduct Involving Conflict of Interest

1. **Persons Covered:** The conflict of interest provisions of this policy shall apply to any person who is an employee, elected or appointed official, agent, consultant (including grant administrators; engineers and architects), officer, or any immediate family member\* or partner of the above, of the recipient, or of any designated public agencies, or sub-recipients which are receiving funds from the Missouri Community Development Block Grant program.
  - a. Immediate family is defined as spouse, son, daughter, sibling, stepsibling, father, mother, grandparent, grandchild, stepchild, adopted child, foster child, and wards.
2. **Applicability:** In the area of procurement of supplies, equipment, construction, and services by recipients, sub-recipients, or designated public agencies, the conflict of interest provisions of this policy shall apply. Such cases include the acquisition and disposition of real property and the provisions of assistance by the recipient or sub-recipients to individuals, businesses, and other private entities in the form of grants, loans, or other assistance through eligible activities of the program which authorize assistance.
3. **Conflicts Prohibited:** Except for approved eligible administrative or personnel cost, no persons described in 1 above who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under the State program or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the State CDBG Economic Development Program, the above restrictions shall apply to all activities that are a part of the funding approval for all projects, and shall cover any such interest or benefit during, or at any time after, such person's tenure.
4. **Exception:** The State may, on a case by case basis, grant an exception to Section 3 above after a determination has been made by the State that the exception will serve the purposes of the Housing and Community Development Act of 1974 and the State's adopted Final Statement for each year therefore only after the recipient has provided to the State the following written documentation:
  - a. A disclosure of the nature of the conflict accompanied by documentation that there has been a public disclosure of the conflict and a description of how the public disclosure was made. Public disclosure may include either a public hearing or an appropriate comment period; public hearings require 5 full days of notice. Acceptable documentation would include a copy of the published notice for the public hearing, and minutes of the public hearing including comments; and
  - b. An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

### Standard of Determining Exception

In determining whether to grant an exception, after the above two items have been received, the State shall consider the following factors, where applicable:

1. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available
2. Whether an opportunity was provided for open competitive bidding or negotiation

3. Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class
4. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question
5. Whether the interest or benefit was present before the affected person was in a position as described in Section 3
6. Whether undue hardship will result either to the recipient or the person affected when weighted against the public interest served by avoiding the prohibited conflict
7. Any other relevant considerations

If after all considerations, the determination is made to grant an exception, the State shall issue a waiver noting such exception and the conditions and basis of the issuance of the same.

## **SAMPLE CONFLICT OF INTEREST PUBLIC HEARING**

### **CITY OF ANYTOWN**

The City of Anytown will hold a public hearing to discuss conflict of interest issues on Monday, January 30, 2000 at 6:00 pm at the Anytown City Hall. The City is interested in obtaining citizens comments regarding a possible conflict of interest that may arise during the course of the Community Development Block Grant (CDBG) project that was awarded on January 1, 2000. Activities include the demolition of vacant, dilapidated structures within the City. The parents of an employee of the city own one of the units to be demolished.

All citizens are encouraged to attend in order to comment. For more information, or if you require special accommodations at the hearing, contact City Clerk Jane Doe at 573-555-1234.

## **SAMPLE**

### **REQUEST FOR PROPOSALS**

#### **PRESELECTION OF PROFESSIONAL ADMINISTRATION SERVICES**

The City/County of (XXXX) requests proposals for administrative services to assist in a proposed project financed with \$(insert dollar amount) in Community Development Block Grant (CDBG) funds. (Insert Project Description.)

Administration services shall include, but are not limited to, the implementation of the project in conformance with the following CDBG compliance area: *NOTE! Must insert applicable areas of compliance applicable to the project.*

Information provided to the city/county shall include at a minimum:

1. The specialized experience and technical competence of the firm with respect to CDBG grant administration. *IF APPLICABLE please include "and related work on jointly funded projects with RD and DNR"*
2. The past record of performance of the firm with respect to such factors as accessibility to clients, quality of work, and ability to meet schedules
3. The capability of carrying out all aspects of grant related activities
4. Cost of services
5. References from previous clients of related work with the firm within the past five years
6. Documentation of compliance with E-Verify requirements

*PLEASE IDENTIFY the criteria above that shall receive priority weighting in the final selection.*

The above information should be submitted no later than (DATE), (TIME), (named location & address). For more information contact city clerk/county clerk at (PHONE NUMBER).

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of proposals from minority and women-owned firms.

**SAMPLE FOR COMBINED PRESELECTION  
REQUEST FOR QUALIFICATIONS  
PROFESSIONAL ENGINEERING SERVICES:**

**PRELIMINARY ENGINEERING, DESIGN, AND INSPECTION SERVICES**

The City/County of (XXXX) requests qualifications for preliminary engineering services, subsequent engineering design services, and construction inspection services, to assist in a proposed public facilities project to be partially financed with Community Development Block Grant (CDBG) funds. The remainder of the project is being financed by the city's/county's \$(XXXX) (if applicable - bond issue.) The project consists of (identify project scope).

Information provided to the city/county must include at a minimum:

1. The specialized experience and technical competence of the firm with respect to water system improvements or related work
2. The capacity and capability of the firm to perform the work in question, including specialized services, within a period of twelve months beginning *(INSERT DATE)*
3. The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules
4. The firm's proximity to and familiarity with the area in which the project is located
5. References from previous clients of related work with the firm within the past five years
6. *IF APPLICABLE TO THE PROJECT "References and experience on jointly funded CDBG/RD/DNR grant projects"*
7. Documentation of compliance with E-Verify requirements

The firm will be selected based on the above qualifications. Once the most qualified firm is selected, a cost for preliminary engineering will be negotiated separately from the cost for engineering design. Contracting for these two activities shall occur separately and costs/payments associated with each will be clearly defined. Contracts executed for engineering design and construction inspection services shall be contingent upon the award of the grant and commitment of all project funds.

The above information should be submitted no later than (DATE), (TIME), (named location & address). For more information, contact city clerk/county clerk at (PHONE NUMBER).

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of proposals from minority and women-owned firms.

**SAMPLE**  
**REQUEST FOR PROPOSALS**  
**DEMOLITION INSPECTION SERVICES**

The City/County of (XXXX) requests proposals for demolition inspection services to assist in a potential project financed in part with Community Development Block Grant funds. The project consists of the demolition of # residential and # commercial vacant dilapidated structures throughout the community. Services requested include the following:

1. Conduct and complete a checklist to document a preliminary inspection of each structure and determine deficiencies in each structure
2. Prepare a scope of work and obtain an assessment from the asbestos inspector
3. Prepare cost estimate, bid documents and other contract provisions
4. Collaborate with the City, grant administrator and asbestos inspector as necessary to ensure CDBG requirements and DNR asbestos and waste disposal regulations, are met
5. Assist the City with regard to the solicitation bids
6. Represent the City during the demolition and clean up phase of the project
7. Prepare change orders
8. Approve requests for payments
9. Inspect project progress
10. Provide Certificate of Completion
11. Report to the City periodically on the progress of the project
12. Attend monitoring visits conducted by CDBG

Information provided to the city/county shall include:

1. The specialized experience and technical competence of the firm or person with respect to working on CDBG funded demolition projects and/or other demolition projects.
2. Experience in building construction trades. The minimum experience required includes at least one-year experience in one of the following: building construction supervisory position, trades instructor, full time city code inspector or as a demolition inspector.
3. The past performance of the firm or person with respect to such factors as accessibility to clients, ability to meet schedules; communication and coordination skills.
4. Cost of services per unit and total price for the following activities: Inspection of structures, preparation of project specifications, bid solicitation/tabulation and inspection monitoring for demolition work and finished grade.
5. References from previous clients of related work with the firm within the past five years.

The firm will be selected on the above qualifications. The above information should be submitted no later than (DATE), (TIME), (named location & address). For more information, contact city clerk/county clerk at (PHONE NUMBER).

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of proposals from minority and women-owned firms.

**SAMPLE**  
**REQUEST FOR PROPOSALS**  
**ASBESTOS INSPECTION**

The City/County of (XXXX) requests proposals for a Missouri certified asbestos inspector to assist in a demolition project funded in part with Community Development Block Grant. The project consists of the demolition of # residential and # commercial vacant dilapidated structures.

Inspection services shall include the identification of any and all materials that may need abatement and proper disposal to conform with all applicable MO DNR regulations.

Information provided to the city/county must include:

1. The specialized experience and technical competence of the firm with respect to asbestos assessment and inspection services and related work. The firm must be currently licensed and remain licensed with Missouri Department of Natural Resources until project completion.
2. Past performance of firm with respect to such factors as accessibility to clients, quality of work, and ability to meet schedules.
3. Knowledge of and compliance with State of Missouri Department of Natural Resources, reporting, and notification documents.
4. Cost of services should be calculated on a per unit basis.
5. References from previous clients of related work with the firm within the past five years.
6. Copy of current MO DNR Asbestos Inspection license

The firm will be selected on the above qualifications. The above information should be submitted no later than (DATE), (TIME), (named location & address). For more information, contact city clerk/county clerk at (PHONE NUMBER).

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of proposals from minority and women-owned firms.

**SAMPLE**  
**ADVERTISEMENT FOR BID**  
**DEMOLITION AND/OR ASBESTOS REMOVAL**

The City/County of (XXXX) will be accepting sealed bids from qualified contractors for the demolition and/or asbestos removal of # of residential and # of commercial structures at the office of (named location & address) until (DATE), (TIME), and then at said office publicly opened and read aloud. NO FAXED BIDS WILL BE ACCEPTED.

Asbestos inspection of the structures to be demolished has already occurred; report is available to bidders. The city/county is bidding demolition and asbestos removal together. The demolition contractor must be licensed for asbestos removal, or must partner with a licensed asbestos contractor. After the removal of the asbestos by the licensed asbestos contractor, the demolition contractor would complete demolition of the structure.

Specifications, Form of Contract, Forms of Bid Bond, Performance and Payment Bond and other contract documents may be examined at:

(Named location)

(Address)

(City, State, Zip)

The city/county reserves the right to waive any informality or reject any or all bids.

Each bid must be accompanied by a bid guarantee equivalent to 5% of the bid amount. This can be secured by a bid bond or certified check and must be included with the bid.

Attention of bidders is particularly called to the requirements as the conditions of employment to be observed and Davis Bacon and/or State Prevailing wage rates to be paid (for asbestos abatement, if contract is over \$2,000) under the contract, Section 3-DBE, Segregated Facility, Section 109, E.O. 11246, and compliance with the OSHA 10 hour construction safety course. Documentation of compliance with E-Verify is required.

No bidder may withdraw their bid within ## days after the actual date of bid opening.

The City/County of (XXXX) is an Equal Opportunity Employer and invites the submission of bids from minority and women-owned firms. For more information, contact city clerk/county clerk at (PHONE NUMBER).

The following sample of an evaluation matrix is for your use as appropriate for your specific situation. Samples provided by CDBG should not replace advice/review from an attorney. The weights and rating values assigned should be the same as those listed in the Request for Proposals. Each rater should complete an evaluation for each firm submitting a proposal.

The highest number represents the most value for each column. WEIGHT column: 1-10 points depending on value to the project and level of importance (assigned by rating group and must be identical on all evaluations), in each area, to the particular project. RATING column: 1-5 points. In this column you rate the firm based on each qualification. Multiply the rating by the weight for each category and enter the total. Add all totals to establish final score for firm.

Name of Firm:

Contact Person:

Project Description

Individual Evaluation

	WEIGHT 1-10	X	RATING 1-5	=	Total
Specialized Experience & Competence related to CDBG		X		=	
Past record of performance of firm with respect to such factors as accessibility to clients, quality of work, and ability to meet schedules		X		=	
Capability of carrying out all grant related activities		X		=	
Cost Comparison		X		=	
References		X		=	
Met requirements for submittal		X		=	

Name of Reviewer:

Grand Total:

**SAMPLE**

**COUNTY PROCUREMENT AND CONFLICT OF INTEREST POLICY**

**BE IT RESOLVED:** that the County of \_\_\_\_\_ hereby notifies the Department of Economic Development that its procurement is completed in accordance with Chapter 50 of the Missouri Revised Statutes, County Finances, Budget and Retirement Systems, Sections 50.760 to 50.790, including all other applicable sections and applicable waivers that have been established under Section 50.783.

**FURTHER BE IT RESOLVED:** that the County of \_\_\_\_\_ operates in accordance with Chapter 105 of the Missouri Revised Statutes; Public Officers and Employees – Miscellaneous Provisions regarding conflict of interest of any person who is designate as a decision-making public servant.

**SIGNED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_.**

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Presiding Commissioner

Attest:

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County Clerk

**SAMPLE**  
**ORDINANCE NO. \_\_\_\_\_**  
**PROCUREMENT POLICY**  
**FOR THE CITY OF ANYTOWN, MISSOURI**

- Section 1.** The purchasing agency shall be appointed with the approval of Mayor and City Council. The purchasing agent, when authorized, shall procure for the city the bids for all supplies and contractual services needed by the city in accordance with the procedures prescribed by this ordinance.
- Section 2.** Duties Generally. In addition to the purchasing authority conferred in the preceding section, and in addition to any other powers and duties conferred by this, the purchasing agent shall:
- a. Act to procure for the city the highest quality for all supplies and contractual services at the least expense to the city;
  - b. Exploit the possibilities of buying “in bulk” so as to take full advantage of discounts;
  - c. Inspection or supervise the inspection of all deliveries with regard to quantity, quality, and conformance to the specifications.
- Section 3.** Conflict of Interest. See “Code of Conduct Policy” for the guidelines affecting this topic.
- Section 4.** Gifts and Rebates. The purchasing agent and every other officer and employee of the city are expressly prohibited for accepting, directly or indirectly, from any person, company, firm, or corporation to which any purchase or contract is or might be awarded, any rebate, fit, money, or anything of value whatsoever, except where given for the use and benefit of the city.
- Section 5.** Purchases of \$500 or Less. The purchasing agent, Mayor, Superintendent of Water & Maintenance, and President of Board is authorized to purchase items that cost \$500 or less without City Council approval.
- Section 6.** Purchase in Excess of \$500. Mayor and City Council must approval all purchases in excess of \$500.
- Section 7.** Bidding.
- a. If the consideration is not more than \$2,000, bids shall be solicited in the most expedient manner with due regard for competitive prices and quality.
  - b. If the consideration is for more than \$2,000 but less than \$10,000 at least two (2) bids shall be solicited by mail or telephone require from two (2) prospective vendors, from which the lowest responsible bidder (Refer to Section 9), with proper qualifications shall be accepted. A record of quotations shall be maintained. The purchase shall be approved by the Mayor and City Council.
  - c. If the consideration is for more than \$10,000, the inviting bids shall be published one time only in an official newspaper at least two weeks preceding the last day set for the receipt of bids. The bid shall be awarded to the lowest responsible bidder (Refer to Section 9), with proper qualifications. The inviting bid shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, and the time and place of opening bids. The purchase shall be approved by the Mayor and City Council.
  - d. For all supplies and contractual services estimated to cost in excess of \$3,500, a written contract should be obtained from the qualified bidder. The Mayor and City Council shall award the contract for supplies and contractual services.
- Section 8.** Bid Opening Procedure. Bids shall be submitted sealed to the city and shall be identified as “bids” on the envelope. They shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be posted for public inspection and a tabulation report on file.

- Section 9.** Lowest Responsible Bidder. The city reserves the right to reject any and all bids. Contracts shall be awarded to the lowest responsible bidder. In determining “lowest responsible bidder,” in addition to price, the following shall be considered:
- a. The ability, capacity, and skill of the bidder to perform the contract or provide the service required;
  - b. Whether the bidder can perform the contract or provide the service promptly, or without delay or interference;
  - c. The character integrity, reputation, judgment, experience, and efficiency of the bidder;
  - d. The quality of performance of previous contracts or services; and,
  - e. Based on discretion of the Board.
- Section 10.** Justification of Award. When the award is not given to the lowest responsible bidder, a full and complete statement of the reasons for placing the order elsewhere shall be completed and kept on file.
- Section 11.** Tie bids. If all bids received or the lowest bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a bidder approved by the Board.

This Ordinance, passed by the Council Members of the City of Anytown, Missouri, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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*Typed Name below signature, Mayor*

Attest:

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*Typed Name below signature, City Clerk*

**SAMPLE**  
**CODE OF CONDUCT POLICY**  
**FOR THE CITY OF ANYTOWN, MISSOURI**

**PURPOSE**

The purposes of this Code of Conduct is to ensure the efficient, fair, and professional administration of Federal grant funds in compliance with the State of Missouri CDBG Program policy and other applicable Federal and State standards, regulations, and laws.

**APPLICATION**

This Code of Conduct applies to all officers, employees, or agents of the City of Anytown, Missouri engaged in the award or administration of contracts supported by Federal grant funds.

**REQUIREMENTS**

No officer, employee or agent of the City of Anytown, Missouri shall participate in the selection, award, or administration of a contract supported Federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer or agent;
2. Any member of his/her immediate family;
3. His/her partner; or
4. An organization which employs, or is about to employ, any of the above

Has a financial or other interest in the firm selected for award.

The City of Anytown, Missouri officers, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

**REMEDIES**

To the extent permitted by Federal, State, or Local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City of Anytown, Missouri's officers, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
*Typed Name below signature, Mayor*

Attest:

\_\_\_\_\_  
*Typed Name below signature, City Clerk*