

RESOLUTION 2016-40 PROCUREMENT POLICY

PURPOSE

The purpose of this Procurement Policy is to ensure that sound business judgment is utilized in all procurement transactions involving the use of federal monies, 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.

APPLICATION

This policy applies to the procurement involving the use of federal program monies, including CDBG Award, Hazard Mitigation Program Grant or the Emergency Management Planning Grant (EMPG), and other federal grant programs, of all supplies, equipment, construction, and services of and for Lyon County as well as those related to the implementation and administration of all non-disaster or disaster federal awards, including but not limited to: the CDBG Award, Hazard Mitigation Program Grant or the Emergency Management Planning Grant (EMPG). In regards to aforementioned federal programs, all procurement will be done in accordance with 2 CFR; Part 200 and 24 CFR; Part 85.36, respectively.

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. Small purchase procedures are relatively simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies, or other property, costing in aggregate not more than \$100,000 (\$150,000 for federal programs). If small purchase procedures are used for a procurement under a grant, price or rate quotations shall be obtained from an adequate number of qualified sources.
- B. In sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all of the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction.
 1. In order for sealed bidding to be feasible, appropriate conditions must be present, including, at a minimum, the following:
 - (a) A complete, adequate and realistic specification or purchase description is available;

- (b) Two or more responsible bidders are willing and able to compete effectively for Lyon County business; and
 - (c) The procurement lends itself to a firm-fixed-price contract, and the selection of the successful bidder can be made principally on the basis of price.
2. When sealed bids are used for a procurement under a grant, the following requirements apply:
- (a) A sufficient time prior to the date set for opening of bids, bids shall be solicited (publicly advertised) from an adequate number of known suppliers;
 - (b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation for bids;
 - (c) All bids shall be opened publicly at the time and place stated in the invitation for bids;
 - (d) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of Lyon County indicates that such discounts are generally taken; and
 - (e) Any or all bids may be rejected if there are sound documented business reasons in the best interest of the program.
- C. Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded, as appropriate. Competitive proposals are generally used when conditions are not appropriate for the use of sealed bids. If the competitive proposals method is used for a procurement under a grant, the following requirements apply:
- 1. Requests for Proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be considered to the maximum extent practical;
 - 2. Requests for Proposals shall be solicited from an adequate number of qualified sources;
 - 3. Lyon County shall have a written method for conducting evaluations of the proposals received and for selecting awardees;

4. Awards will be made to the responsible offeror whose proposal will be most advantageous to Lyon County, with price (other than architectural/engineering) and other factors considered.
 5. Lyon County may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in the procurement of A/E professional services. It can not be used to procure other types of services (e.g., administration professional services) even though A/E firms are a potential source to perform the proposed effort.
- D. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source. Circumstances under which a contract may be awarded by noncompetitive proposals are limited to one or more of the following:
1. The item is available from only a single source;
 2. After solicitation of a number of sources, competition is determined inadequate;
 3. A public exigency or emergency exists when the urgency for the requirement will not permit a delay incident to competitive solicitation; or
 4. The awarding agency authorizes noncompetitive proposals.
- E. Lyon County will take affirmative steps to assure, to the greatest extent possible, that contracts are awarded to qualified small and minority firms, women's business enterprises, and labor surplus area firms whenever they are potential sources.

These affirmative steps must include:

- a. If known, an affirmative step may include, but not required, placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are treated equally whenever they are potential sources;
- 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;

CONTRACT PRICING

- A. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.

- B. Lyon County shall perform some form of cost/price analysis for every procurement action, including modifications, amendments or change orders. Lyon County shall make an independent estimate prior to receiving a bid or proposal.
- C. Lyon County 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, Lyon County 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 industry profit rates in the surrounding geographical area.

PROCUREMENT RECORDS

Lyon County 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.

AWARDED CONTRACTS

- A. Lyon County will not award a contract to a party listed as debarred, suspended, or otherwise excluded in the System for Award Management (SAM).
- B. Any contracts awarded shall comply with 2 CFR 200.326 and Appendix II to Part 200.

Passed and adopted this 12th day of December, 2016.

Randy Bosch, Chairperson

ATTEST:

Jen Smit, Auditor