

CITY/VILLAGE OF _____, NEBRASKA
PROCUREMENT PROCEDURES AND CODE OF CONDUCT

The City/Village of _____ Nebraska will in all cases of procurement for professional services construction services and materials needed for Community Development Block Grant (CDBG) Programs adhere to Code of Federal Regulation 24 C.F.R. Section 85.36 or current state statutes; in all cases the stricter shall apply. The following procedures summarize said laws and regulations.

- A. Procurement shall be made by one of the following methods:
- 1) **Small Purchase Procedures [24 C.F.R. Section 85.36 (d)(1)] – This method will generally be used to obtain small quantities of supplies.** Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.
 - 2) **Competitive Sealed Bids [24 C.F.R. Section 85.36 (d)(2)] - This method will generally be used to obtain contractors for construction projects and for large quantities of goods or materials.** 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 the material terms and conditions of the invitation for bids, is the lowest in price.
 - 3) **Competitive Proposals [24 C.F.R. Section 85.36 (d)(3)] - This method will generally be used to obtain professional services.** This method has two sub-parts—the Request for Proposal and the Request for Qualifications. Request for Proposals – The Request for Proposals (RFP) must clearly and accurately state the technical requirements for the goods and services required; The grantee must publicize the RFP, and to the maximum extent practicable, honor reasonable requests by parties to have an opportunity to compete; Proposals must be solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement; The grantee must conduct a technical evaluation of the submitted proposals to identify the responsible offerors; As necessary, the grantee must conduct negotiations with those offerors who are deemed responsive and responsible and fall within a competitive price range, based on the grantee’s evaluation of the bidders’ pricing and technical proposals. After negotiations, these bidders may be given the opportunity to submit a “best and final” offer; and The grantee must award the contract to the most responsive and responsible offeror after price and other factors are considered through scoring the proposals or “best and final” offers according to predetermined evaluation criteria. The successful proposal/offeror must clearly be the most advantageous source of the goods and services. Request for Qualifications - Grantees and subgrantees 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 procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

- 4) **Non-Competitive Proposals/Sole Source [24 C.F.R. Section 85.36 (d)(4)] – This method will only be used after approval from the Department of Economic Development.** When requesting permission to use this method, the grantee will have to show that another method of procurement was not feasible because: the item or service was only available from a single source; a public emergency or condition requiring urgency existed which did not permit the use of competitive procurement; or competition was determined to be inadequate after solicitation of proposals from a number of sources.
- B. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.
- C. The _____ shall maintain records sufficient to detail the significant history of a procurement. These records shall include at a minimum: rationale for the method of procurement; selection of contract type; contractor selection or rejection; and the basis for the cost or price.
- D. The following contract provisions or conditions shall be included in all procurement contracts and subcontracts:

General Administrative Provisions

- Effective date of the contract.
- Names and addresses of the firm and the grantee.
- Citation of the authority of the grantee under which the contract is entered into and the source of the funds.
- Conditions and terms under which the contract may be terminated by either party and remedies for violation/breach of contract.
- Procedures for amending or revising the contract.

Scope of Services

- Detailed description of the extent and character of the work to be performed.
- Time for performance and completion of contract services, including project milestones, if any.
- Specification of materials or other services to be provided (i.e. maps, reports, etc.)

Method of Compensation

- Provisions for compensation for services including fee and or payment schedules and specification of maximum amount payable under the contract.

Federal Standard Provisions

- Compliance with Executive Order 11246, as amended (Required for service contractors only if the contractor has 50 or more employees and the contract is for more than \$50,000)
- Title VI of the Civil Rights Act of 1964 clause
- Section 109 of the Housing and Community Development Act of 1974 clause
- Section 3 compliance clause (Required only if the contract exceeds \$100,000)
- Access to Records/Maintenance of Records clause
- When required, all construction contracts exceeding \$2,000 shall include provisions for compliance with the Davis-Bacon Act (DBA), the Contract Work Hours and Safety Standards Act (CWHSSA), The Copeland Act (Anti-Kickback Act) clause, and the Fair Labor Standards Act (FLSA) clause.

This Code of Conduct shall govern the performance of the elected or appointed officials or member of any board or commission employees or agents of the City/Village of _____ Nebraska engaged in the award and administration of contracts supported by Federal funds under Community Development Block Grant.

- I. The provisions and requirements of the *Conflicts of Interest, at subpart (d)* of the Nebraska Political Accountability and Disclosure Act [such subpart (d) encompassing Sections 49-1493 through 49-14,104 of the Nebraska Revised Statutes], are incorporated in this Code of Conduct by this reference. The provisions and requirements of 24 C.F.R. Section 85.36(b)(3) are also incorporated in this Code of Conduct by this reference. The requirements of these Nebraska state statutes and federal regulations will be adhered to, and in the event of a conflict in the requirements of any of such state and federal requirements, the stricter of any conflicting provisions will be adhered to.
- II. No employee, officer or agent of the municipality shall participate in the selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when an employee or agent; any member of his or her immediate family; his or her partner; or an organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.
- III. The municipal employees, officers or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subcontracts.
- IV. Violations of this Code of Conduct will invoke penalties and sanctions consistent with applicable Federal and State laws.

This area is to be used to show the governing body's adoption and signatures.