

12.3.2.1.1 Placing unreasonable requirements on firms in order for them to qualify to do business.

12.3.2.1.2 Requiring unnecessary experience and excessive bonding.

12.3.2.1.3 Noncompetitive pricing practices between firms or between affiliated companies.

12.3.2.1.4 Noncompetitive awards to consultants that are on retainer contracts.

12.3.2.1.5 Organizational conflicts of interest.

12.3.2.1.6 Specifying only a "brand name" product instead of allowing "an equal" product to be offered.

12.3.2.1.7 Any arbitrary action in the procurement process.

12.3.2.2 The inability to obtain more than one bid, price quote or proposal shall not prohibit the approval of a purchase if other prospective vendors or contractors have been given adequate notice of the procurement and an opportunity to participate, and have declined to submit bids, proposals or price quotes. The declination to submit need not be in writing.

12.4 Efficiency Review.

12.4.1 The purchasing agent or designee shall review the proposed procurement to avoid unnecessary or duplicated items.

12.4.2 In order to obtain a more economical, efficient or effective purchase, consideration shall be given to:

12.4.2.1 Breaking out or consolidating purchases.

12.4.2.2 Lease versus purchase alternative.

12.4.2.3 Interlocal agreements for purchase or use of common goods.

12.4.2.4 Use of federal or state surplus property.

12.4.2.5 Value engineering reviews.

12.4.2.6 Use of state or federal contracts for materials and/or services.

12.5 Performance review.

Contracts shall specify a contract or project manager, appointed by the local governing body, to ensure that the contractor performs in accordance with the terms, conditions and specifications of its contract or purchase order.

12.6 Records

Appropriate arrangement shall be made for the generation and maintenance of all files, records and documentation necessary to evidence the compliance with all requirements as delineated in this document. All procurement shall comply with this document. A complete set of records shall be maintained by the entity responsible for the procurement for a minimum of five years.

12.7.5 Noncompetitive Negotiation shall be used when other types of procurement are infeasible (see "Exceptions"),

12.8 Solicitation and Award

12.8.1 Invitation for bids.

12.8.1.1 The invitation to bid is used when the procuring entity is capable of defining the scope of work for which a contractual service is required or when the procuring entity is capable of establishing precise specifications defining the actual commodity or group of commodities required.

12.8.1.2 Invitation to bid shall be a written solicitation for sealed competitive bids with the title, date, and hour of the public bid opening designated and which specifically defines the commodity, group of commodities, or services for which bids are sought. It includes instructions describing all conditions for bidding and shall be distributed (or available) to all prospective bidders simultaneously.

12.8.1.3 Sealed bids are required to be received at a specified place not later than a specified time and date. Failure to comply with any instructions pertinent to the delivery of such bids may result in their being rejected.

12.8.2 Request for proposals (RFP). A request for proposals (REP) shall be a written solicitation for sealed proposals with the title, date, and hour of the public opening designated. The request for proposals is used when (a) the procuring entity is incapable of specifically defining the scope of work for which the commodity, group of commodities, or contractual service is required and when it requests that a qualified offerer propose a commodity, group of commodities or contractual service to meet the specifications of the solicitation document, or (b) when quality performance is to be the primary factor for selection. With respect to competitive negotiations, a qualified offerer shall refer to the provisions of F.S. § 287.055, ES. (1989). A request for proposals includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Requests for proposals shall state the relative importance of price and any other evaluation criteria.

12.8.3 Advertising The advertisement must be written in a clear, concise manner and in a way which would optimize competitive bidding. The advertisement shall contain at least the following minimum information:

12.8.3.1 Time, date and location for receiving and opening bids or proposals (the date shall not be less than 10 days after the final advertisement is published).

12.8.7 Multiple service awards. Vendors of service suppliers will be considered for multiple sources of supply or multiple services when it can be demonstrated that such vendors or service suppliers either are sole sources of the services or are the responsive proposer whose proposal is determined in writing as a result of a competitive process to be the most advantageous to local government. For each service listed in F.S. § 290.047(5), 1989, when included in a multiple service contract, written determination of the need for a multiple service contract and the supporting documentation shall be maintained on file with the subgrantee. Any or all bids or proposals may be rejected where there are sound documented business reasons which are in the best interest of the procurer. Records of all proceedings for selection and/or rejection shall be maintained

12.9 Exceptions

The noncompetitive negotiation method of procurement is solicitation of a proposal from only one source if, after solicitation of a number of sources (documented), competition is determined inadequate [refer to 24 CFR 85.36(d)(4)].

12.9.1 When procurement or award of contract is infeasible under simple or intermediate procurement or thorough formal (sealed bid) competition; and

12.9.2 Under one of the following circumstances:

12.9.2.1 The item is available only from a single source; or

12.9.2.2 Public exigency or emergency exists such that the urgency for the requirement will not permit a delay incident to competitive bidding; or

12.9.2.3 In the case where grant funds are being used, the federal or state (whichever is more stringent) grantor agency authorized noncompetitive negotiations; or

12.9.2.4 After solicitation of a number of sources, competition is determined inadequate; or (5) The contract item is available under a State of Florida contract.

12.9.3 Emergency purchases of up to \$10,000 shall be authorized by the purchasing agent when, based on his/her decision, the delay incurred by following the normal procurement requirements would not be in the best interests of the City.

12.11 Contracts

All contracts procured with state or federal funds shall contain applicable provisions as required by F.S. § 287.058, Florida administrative rule, federal law, regulation or executive order. Provisions shall include, but not be limited to, such requirements as bonding, equal opportunity, contract termination, record retention, public access to records, reporting, remedies for breach, conflict of interest, labor standards compliance, pre- and post-audit requirements, and compliance with environmental laws. As required by, § F.S. 287.055, the City shall conduct a cost analysis on all contracts covered by the statute, as well as all contracts that will be awarded on a single bid or proposal.

12.12 Code of conduct

12.12.1 No employee, officer or agent of the procuring entity shall participate in the selection, award or procurement of an application, administration, engineering or construction contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when (a) the employee, officer or agent, (b) any member of his immediate family, (c) his or her partner, or (d) an organization which employs, or is about to employ, any of the above will receive a financial or other direct benefit of CDBG funds from the contract award. In any of these cases, the employee, officer or agent will abstain from voting on the award.

12.12.2 Officers, employees and agents of the procuring entity will neither solicit gratuities, favor anything of monetary value, nor accept any unsolicited gratuity, favor or gift valued above \$25 from contractors or potential contractors, or parties to sub agreements.

12.12.3 Violation of this policy shall be subject to penalties, sanctions or other disciplinary action as permitted by state or local law. Upon conviction in a state court of competent authority, a violator may be found guilty of a first degree misdemeanor, punishable as provided in F.S. § 775.082 or 775.083.

12.13 Protests

Objection to procurement shall be issued, in writing, to the chief elected official within five working days of purchase or selection to purchase under contract. A response shall be issued to the objecting party within five working days. An objection shall be considered valid only if it discloses a violation of this policy.

12.13.1 For employment discrimination, contact:

The U.S. Equal Employment Opportunity Commission
2401 E Street, NW
Washington, DC 20507 1-800-872-3362

12.13.2 For housing discrimination, contact:

Florida Commission on Human Relations
325 John Knox Road, Bldg. F, Suite 240 Tallahassee, Florida 32303
1-800-342-8170