

PROCUREMENT POLICY FOR THE CITY OF CRAB ORCHARD INCLUDING SMALL PURCHASES OF \$20,000 AND UNDER AND PROCUREMENT PROCEDURES FOR SERVICES AND MATERIALS VALUED IN EXCESS OF \$20,000

WHEREAS, the Commonwealth of Kentucky, on March 17, 1978, adopted a Procurement Code for local governments and subdivisions of local governments within the Commonwealth of Kentucky (KRS 45A.345-45A.460) and,

WHEREAS, the Commonwealth of Kentucky Procurement Code became effective January 1, 1980, and requires adoption of local Procurement Codes for each local government or subdivision of local government within the Commonwealth of Kentucky and,

WHEREAS, the Commonwealth of Kentucky in its contract between the local unit of government and the United States of America requires that procurement of all services and materials be undertaken in conformance with "The Common Rule" and Federal Management Circular 77-4; and,

WHEREAS, the **City of Crab Orchard** has evaluated the requirements of both state law and federal rules and regulations,

NOW, THEREFORE, BE IT RESOLVED by the **City of Crab Orchard** that:

- 1) the local Procurement Policy for the City of Crab Orchard is attached hereto for small purchases and purchases of \$20,000 or less and procurement procedures for services and material with a value in excess of \$20,000 is hereby approved.
- 2) that the Procurement Policies established herein for the City of Crab Orchard shall be effective immediately; and,

ADOPTED THIS 6th DAY OF September, 2001

MAYOR Phillip Shelton

Cheri Locke, CKMC, City Clerk

PROCUREMENT STANDARDS

All procurements made by the **City of Crab Orchard** involving the expenditure of Funds will be made in accordance with the following procurement standards.

Procurement transactions, regardless of method or dollar value, will maximize open and free competition. The **LPA** shall not engage in procurement practices, which may be considered restrictive in trade.

Purchases will be reviewed by the Executive Director of the **LPA** to prevent duplication and to insure that costs are reasonable.

1. Methods for Procurement

Procurements shall be made by one of the following methods: (a) small purchase procedures, (b) competitive sealed bids, (c) competitive negotiation, (d) non-competitive negotiation.

A. SMALL PURCHASES

Purchases of supplies, equipment and services which cost over \$200 but less than \$10,000 will require no legal advertisement. The **LPA** will solicit telephone responses from at least three vendors. Purchases that cost between \$40 and \$200 require three over-the-telephone quotations of rate, price, etc. A memorandum will be prepared setting forth the date the calls were made, parties contacted and prices obtained. For purchase of less than \$50, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

B. COMPETITIVE SEALED BIDS

Bidding will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual services other than those personal or professional exceeds \$10,000, an Invitation for Bids (IFB) notice will generally be prepared. This notice will be published at least once in at least one official newspaper of general circulation within the community. This newspaper notice will appear not less than seven (7) days and not more than twenty-one (21) days before the due date for bid proposals. The Agency may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

The IFB will include a general description of the goods or services to be procured, the bid deposit and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place for opening bids, and whether the bid award will be made on the basis of the lowest bid price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be utilized must be stated in the IFB. 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 1974 Housing and Community Development Act, the Civil Rights Act of 1964, Executive Order 11246 and the Davis-Bacon Act.

In addition to price, the following are bid evaluation criteria, which may be used with varying weight dependent upon the particular procurement to be made. The criteria and their weights will be established by the IFB.

1. The character, integrity, reputation, judgement, experience and efficiency of the contractor.
2. The ability of the vendor to provide the material or service promptly or within the time specified, without delay or interference.
3. The quality of performance by the vendor on previous contracts, orders or services.
4. The ability of the vendor to provide future maintenance and service for all equipment purchased from the vendor.

The criteria upon which a bid will be awarded will be established by a review committee which will include, if possible, persons with applicable technical skills. The **LPA** will appoint the reviewers, making certain that these individuals have no potential conflicts of interest with the firms or individuals under review. The committee will have no less than three members. The committee will maintain written records of its deliberations including an evaluation of each bid received.

Sealed bids will be opened in public at the time and place stated in the IFBs. The bids will be tabulated by the **LPA** at the time of bid opening. The results of the tabulation and the bid documents will be evaluated by the review committee, which will make recommendations to the **LPA**. The **LPA** will make the decision as to whom the contract shall be awarded. After the bid award is made by the **LPA**, a contract will be prepared for execution by the successful bidder. After the contract is signed, all bid deposits will be returned to all unsuccessful bidders.

The **LPA** may cancel an Invitation for Bid or reject all bids if it is determined in writing that such is in the best interests of the **LPA**. The **LPA** may allow a vendor to withdraw a bid if requested at any time prior to the bid opening. Bids received after the time set for bid opening shall be returned to the vendor unopened.

C. COMPETITIVE NEGOTIATION

The **LPA** will utilize competitive negotiations, regardless of contract amount, upon a written determination that:

1. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid price or the lowest evaluated bid price (in other words, bidding is not feasible).
2. The services to be procured are professional or personal in nature.

With the exception of procurement of certain professional services (principally engineering services), competitive negotiations will proceed as follows:

1. Proposals will be solicited through newspaper advertisement; additionally, a Request for Proposal (RFP) may be prepared and mailed to qualified vendors. The newspaper advertisement must be published at least seven (7) days and not more than twenty-one (21) days before the date for receipt of the proposals. The RFP will describe services needed and identify the factors to be considered in the evaluation of proposals and the relative weights assigned to each selection factor. The RFP will also state where further details regarding the RFP may be obtained. The RFP will call attention to the same regulations discussed in the bidding process. Requests for proposals will always include cost as a selection factor except for engineering services.
2. Award must be made to the offeror whose proposal is determined in writing by a review committee to be the most advantageous to the **LPA**. Evaluations must be based on the factors set forth in the Request for Proposal and a written evaluation of each response prepared. The review committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

For the procurement of certain professional services, an alternative to RFPs may be used. The **LPA** may publish a Request for Qualifications. RFQs are handled in a similar method to RFPs with the exception that cost is not a factor in the initial evaluation. A review committee will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted and the selection committee will negotiate cost. If the committee is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The committee will maintain a written record of all such negotiations.

D. NON-COMPETITIVE NEGOTIATIONS

Non-competitive negotiations may be used for procurements in excess of \$10,000 when bidding or competitive negotiations are not feasible. The Agency may purchase goods and services through non-competitive negotiations when it is determined in writing by the Agency that competitive negotiation or bidding is not feasible and that:

1. An emergency exists which will cause public harm as a result of the delay caused by following competitive purchasing procedures, or
2. The product or service can be obtained only from one source, or
3. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis.

4. Only one satisfactory proposal is received through RFP or RFQ, or
5. The state has authorized the particular type of non-competitive negotiation (example - the procurement of services by an Area Development District).

Procurement by non-competitive negotiation requires the strictest attention to the observation of impartiality toward all suppliers. The Commonwealth of Kentucky must approve all procurements by non-competitive negotiation when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

II. CONTRACTS

Generally, all procurement in excess of \$200 will be memorialized and supported by a written contract. Where it is infeasible or impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will be prepared. The contractual provisions required by "The Common Rule" will be included in all contracts.

III. DOCUMENTATION

All source documents supporting any given transaction (receipts, purchase orders, invoices, RFP/RFQ data, and bid materials) will be retained and filed in an appropriate manner. Where feasible, source documents pertinent to each individual procurement shall be separately filed and maintained. Where it is infeasible to maintain individual procurement files, source documents will be filed and maintained in a reasonable manner (examples include chronologically, by vendor, by type of procurement, etc.). Whatever form of documentation and filing is employed, the purpose of this section is to insure that a clear and consistent audit trail is established. At a minimum, source document data must be sufficient to establish the basis for selection, basis for cost (including the issue of reasonableness of cost) and basis for payment.

IV. LOCALLY OWNED, MINORITY OWNED, FEMALE OWNED AND SMALL BUSINESSES

Efforts will be made and documented to solicit participation of locally owned, minority owned, female owned and small businesses. Where feasible, evaluation criteria will include a factor with an appropriate weight for these firms. A list of locally owned, minority owned, female owned and small businesses and also minority businesses located within the trade region shall be maintained and utilized when issuing IFBs, RFPs and RFQs. This list shall also be consulted when making small purchases.

V. CODE OF CONDUCT

A. CONFLICT OF INTEREST

No elected official, employee or designated agent of the LPA will take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists.

A conflict of interest occurs when the official, employee or designated agent of the LPA, partners of such individuals, immediate family members, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

B. ACCEPTANCE OF GRATITUDES

No elected official, employee or designated agent of the LPA shall solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, subcontractors or potential subcontractors.

C. PENALTIES

Any elected official, employee or designated agent of the LPA who knowingly and deliberately violates the provisions of this code will be open to civil suit by the citizens of the City/County without the legal protection of the City/County/LPA. Furthermore, such a violation of these procurement standards is grounds for dismissal by the City/County.

Any contractor or potential contractor who knowingly and deliberately violates the provisions of these procurement standards will be barred from future transactions with the City/County.

ADOPTED THIS 6th DAY OF September, 2001.

CHAIRPERSON

ATTEST

