


MEMORANDUM

DATE: July 19, 2024

TO: Mayor Lankford & City Council

VIA: Mercy Rushing, City Manager

FROM: Cindy Karch, City Secretary 

SUBJECT: Adoption of Updated Procurement Policies and Procedures for Federal Grants
Council Meeting Agenda Item for July 22, 2024

Introduction:

As part of the GLO-RCP RFI request, the Texas General Land Office (GLO) has requested an updated Procurement Policies and Procedures for Federal Grants. Our consultant has informed us that the GLO did not accept the policies and procedures that were provided to the city earlier this year, even though they had been accepted in prior funding opportunities. To comply with the GLO's requirements and ensure continued eligibility for federal funding, we have updated our procurement policies and procedures. This memo highlights the key changes and rationale behind them.

Key Changes and Rationale:

1. **Compliance with Federal Regulations:**
 - **Previous Policy:** Compliance with federal regulations was mentioned generally.
 - **Updated Policy:** Detailed adherence to 2 CFR 200.318 through 2 CFR 200.327, ensuring comprehensive compliance with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
 - **Rationale:** Ensures explicit compliance with current federal regulations, avoiding any ambiguities.
2. **Conflict of Interest Standards:**
 - **Previous Policy:** Mentioned conflicts of interest and nepotism regulations.
 - **Updated Policy:** Specifies maintaining written standards of conduct covering conflicts of interest and governing the actions of employees engaged in selection, award, and administration of contracts.
 - **Rationale:** Provides clearer guidelines to prevent conflicts of interest, ensuring transparency and integrity in procurement processes.
3. **Procurement Procedures and Methods:**
 - **Previous Policy:** General procedures and methods for procurement.
 - **Updated Policy:** Detailed methods of procurement, including Micro-Purchases, Small Purchases, Competitive Sealed Bids, Competitive Negotiations, and Non-competitive Negotiations, with specific thresholds and requirements.

- **Rationale:** Aligns with federal guidelines, providing clear, structured procurement methods and thresholds to ensure fair competition and compliance.
- 4. **Contract Oversight and Performance:**
 - **Previous Policy:** General oversight of contractor performance.
 - **Updated Policy:** Explicit requirement for the City to maintain oversight to ensure contractors perform according to contract terms, conditions, and specifications.
 - **Rationale:** Ensures proper management and accountability of contractor performance.
- 5. **Use of Time-and-Materials Contracts:**
 - **Previous Policy:** Not explicitly mentioned.
 - **Updated Policy:** Specifies conditions under which time-and-materials contracts can be used, including a ceiling price that the contractor exceeds at its own risk.
 - **Rationale:** Provides guidelines to control costs and ensure efficiency in contracting.
- 6. **Promotion of Minority and Women-Owned Businesses:**
 - **Previous Policy:** Encouraged participation of small and minority businesses, women's business enterprises, and labor surplus area firms.
 - **Updated Policy:** Detailed affirmative steps to solicit and encourage participation from these groups, including using services of the Small Business Administration and the Minority Business Development Agency.
 - **Rationale:** Reinforces commitment to inclusivity and diversity in procurement.
- 7. **Domestic Preferences and Recovered Materials:**
 - **Previous Policy:** Not explicitly mentioned.
 - **Updated Policy:** Emphasizes preference for purchasing goods produced in the U.S. and compliance with the procurement of recovered materials per 2 CFR 200.322 and 2 CFR 200.323.
 - **Rationale:** Supports national economic interests and environmental sustainability.
- 8. **Bonding Requirements:**
 - **Previous Policy:** General mention of bonding requirements.
 - **Updated Policy:** Specific bonding requirements for federally funded construction and facility improvement contracts.
 - **Rationale:** Ensures financial security and performance assurance in federal projects.

Conclusion:

The updated procurement policies and procedures are designed to enhance compliance with federal regulations, ensure transparency and integrity in procurement processes, promote inclusivity and diversity, and support national economic and environmental goals. Adoption of these updated policies will align the City of Mineola with current federal requirements, ensuring continued eligibility for federal grant funding.

Recommendation:

I recommend that the City Council adopt the updated Procurement Policies and Procedures for Federal Grants as presented. This will ensure compliance with GLO requirements and support our continued access to federal funding opportunities.

Attachments:

- Updated Procurement Policies and Procedures for Federal Grants (June 2024)
- Previous Procurement Policies and Procedures

From: [John Besteiro](#)
To: [Mercy Rushing](#)
Cc: [Cindy Karch](#)
Subject: RE: City of Mineola - GLO-RCP - Request For Information
Date: Wednesday, June 19, 2024 10:57:03 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[Mineola - Updated Procurement Policies and Procedures for Federal Grants - June 2024.docx](#)
[Mineola - Resolution for Procurement Policies and Procedures for Federal Grants.docx](#)

Good morning, Mercy.

As part of the GLO-RCP RFI request, the GLO is requesting updated Procurement Policies and Procedures for Federal Grants and did not accept the policies and procedures that I had provided to the city earlier this year. I apologize for that as they had previously accepted them in prior funding opportunities. We have now updated those policies and procedures and need the City Council to adopt them.

Attached are the following documents.

1. Mineola - Updated Procurement Policies and Procedures for Federal Grants – June 2024
2. Mineola - Resolution for the adoption of the updated Procurement Policies and Procedures for Federal Grants

Below is some sample language for the council agenda, if needed. Please feel free to revise as needed.

Agenda Item - Discuss and possible action regarding the adoption of the updated Procurement Policies and Procedures for Federal Grants as needed for applying for a GLO Resilient Communities Program (RCP) grant.

These are the final items that are needed in order for us to submit the city's RFI response.

Please let me know if you have any questions.

Respectfully,

John

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RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF MINEOLA, TEXAS, ADOPTING PROCUREMENT POLICIES AND PROCEDURES FOR FEDERAL GRANT CONTRACTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Mineola needs to adopt formal policies and procedures for the application and receipt of grant funds; and

WHEREAS, the updated Procurement Policies and Procedures for Federal Grant Contracts will establish the framework for operating practices and procedures to execute grant programs and projects; and

WHEREAS, the City Council deems it is in the public's best interest to continue to be eligible for grants through program compliance and to formally approve and adopt the Procurement Policies and Procedures for Federal Grant Contracts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MINEOLA, TEXAS, THAT:

SECTION 1. The foregoing recitals are incorporated into this Resolution by reference as findings of fact as if expressly set forth herein.

SECTION 2. The Procurement Policies and Procedures for Federal Grant Contracts of the City of Mineola is attached hereto as "Exhibit A" and is hereby adopted as the formal policy of the City.

SECTION 3. Should any section, paragraph, sentence, clause, phrase or word of this Resolution be declared unconstitutional or invalid for any purpose, the remainder of this Resolution shall not be affected thereby.

SECTION 4. This Resolution shall take effect immediately upon its passage and publication.

SECTION 5. It is found and determined that the meeting at which this Resolution was passed was open to the public as required by law.

PASSED, APPROVED, and ADOPIED by the City Council of the City of Mineola, Texas, on this the _____ day of _____ 2024.

Jayne Lankford – Mayor

ATTEST:

Cindy Karch – City Secretary

PROCUREMENT POLICY FOR FEDERAL GRANT AWARDS

City of Mineola, Texas

The City will use documented procurement procedures in accordance with all applicable Federal, State, and local government statutes and regulations, including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, per 2 CFR 200.318 thru 2 CFR 200.327.

General Procurement Standards – 2 CFR 200.318

All procurements made by the City involving the expenditure of Federal funds must be conducted in accordance with the procedures set forth in this Policy.

The City will maintain oversight to ensure the contractors perform in accordance with the terms, conditions, and specifications of their contracts.

The City will maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No City employee, officer, or agent will participate in the selection, award, or administration of a contract supported by a federal award if he/she has a real or apparent conflict of interest.

The City procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase.

The City may, when appropriate, consider using federal excess and surplus property in lieu of purchasing new equipment, utilize value engineering clauses in contracts for construction projects that offer reasonable opportunities for cost reductions, and enter into state and local intergovernmental agreements where appropriate.

The City will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The City will maintain records sufficient to detail the history of procurement. These records will include the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

The City may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Each contract must set a ceiling price that the contractor exceeds at its own risk. The City will assert a high degree of oversight regarding these types of contracts in order to

obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

The City will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements.

Competition – 2 CFR 200.319

It is the policy of the City to conduct all procurements in the highest ethical manner, and in accordance with all applicable laws and regulations. To the extent required by law and regulation, and to the maximum extent practical, the City will conduct all procurement transactions in a manner providing full and open competition, consistent with the standards set forth in 2 CFR 200.319.

In order to ensure objective contractor performance and eliminate unfair competitive advantage, the City will ensure that contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. 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. Organizational 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

The City will conduct procurements in a manner that prohibits geographic preferences in the evaluation of bids and proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preferences.

The City will utilize its written procedures for procurement transactions. These procedures must ensure that all solicitations:

1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such descriptions must not, in competitive procurements, contain features which unduly restrict competition. Detailed product specifications will be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

2. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

The City will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City will not preclude any potential bidders from qualifying during the solicitation period.

The City will ensure that all federally funded noncompetitive procurements will only be awarded in accordance with § 200.320(c)

Methods of Procurement To Be Followed – 2 CFR 200.320

The City will use documented procurement procedures, consistent with the standards of this section and including 2 CFR 200.318-.319 for any of the following methods of procurement used for the acquisition of property or services required under a federal award or subaward. Procurements shall be made using one of the following methods: (A) Micro-Purchases (B) Small Purchase procedures, (C) Competitive sealed bids, (D) Competitive negotiations, (E) Non-competitive negotiation. All procurements shall be made in accordance with these procedures.

A. Micro-Purchases

Purchases below the Simplified Acquisition Threshold may be awarded without soliciting competitive proposals if the City considers the price to be reasonable. Efforts will be made to get the lowest and best price, but written records of such efforts are not necessary. Procurements may not be disaggregated for the purpose of falling below the Micro-Purchase threshold.

B. Small Purchases

Purchases of supplies, equipment and services which cost below \$50,000 require written supplier estimates but no formal is required. The City will solicit a verbal or written response from at least three (3) vendors and will document why the vendor was selected if it is not the lowest priced offeror. If no such responses are available, a statement explaining the procurement will be prepared and filed.

C. Competitive Sealed Bids

The use of sealed bids will be employed when detailed specifications for the goods or services to be procured can be prepared and the primary basis for the award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment, or contractual services, other than those personal (procuring the services of an individual for staff augmentation services) or professional (provided by a degreed, licensed professional, principally engineering, accounting, and legal services), exceeds \$50,000, an Invitation for Bids ("IFB") notice will generally be prepared. This notice will be published in the City newspaper of record and/or such other places as the City deems appropriate. This notice will appear at least fourteen (14) days before the due date for bid proposals. The City may also solicit sealed bids

from responsible perspective suppliers by sending them a copy of such notice. To the extent possible, City Staff are encouraged to maintain an open Bidders List.

The IFB will include a complete, accurate and realistic specification and description of the goods or services to be procured, any required bid deposit, the amount of a payment bond 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 price or the lowest evaluated price, If the lowest evaluated price is used, the measurable criteria to be used must be stated in the IFB,

Sealed bids will be opened in public at the time and place stated in the IFB. The bids will be tabulated by the TABULATOR at the time of bid opening. The results of the tabulation and the bid procurements will be examined for accuracy and completeness by the EXAMINER who will make recommendations to the City. In addition, the City shall determine that all firms are responsive and responsible. The City will make the decision as to whom the contract shall be awarded. After the bid award is made by the City, 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 City may cancel an Invitation for Bid or reject all bids if it is determined that such is in the best interests of the City. Bidders will be notified in writing of such cancellation or rejection. The City 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. Bids which do not accept all terms and conditions of the IFB shall be deemed to be non-responsive and will be rejected. Any changes to the bidding terms and conditions shall be communicated to all bidders, and all bidders will have an equal chance to submit a bid responsive to those changed terms and conditions.

D. Competitive Negotiations

The City will use competitive negotiations, regardless of contract amount, upon a written determination that either of the following conditions apply:

- a. Specifications cannot be made specific enough to permit the award of a bid on the basis of either the lowest bid or the lowest evaluated bid price (in other words, sealed bidding is not feasible); or
- b. The services to be procured are professional (provided by a degreed, licensed professional, principally engineering, accounting, and legal services) in nature.

Competitive negotiations will proceed as follows:

1. Proposals will be solicited through advertisement in the City newspaper of record and/or such other places that the City deems appropriate; additionally, a Request for Proposal (RFP) may be prepared and mailed, emailed, or faxed to qualified vendors. 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 applicable regulations. Requests for proposals will always include cost as a selection factor.

2. An award must be made to the offeror whose proposal is determined in writing by the City to be the most advantageous to the City with price and other factors considered. This evaluation and award process contemplates a balancing of cost and technical merit in arriving at a determination as to which proposal provides the best value to the City. Evaluations must be based on the factors set forth in the Request for Proposal and a written evaluation of each response prepared. The selection 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 City may publish a Request for Qualifications. RFQ's are handled in a similar method to RFPs with the exception that cost is not a factor in the initial evaluation. The selection committee will evaluate the responses and rank them by comparative qualifications. The highest scoring person or firm will be contacted, and the City will negotiate cost. If the City is unable to negotiate a satisfactory cost arrangement, the second highest scoring person or firm will be invited to negotiate. The City will maintain a written record of all such negotiations.

E. Noncompetitive Negotiations

The City requires competitive bids for purchases of goods or services (including consulting services) over however, some exceptions apply.

In some circumstances, when competition cannot be obtained or the situation necessitates the required number of competitive bids to be reduced, a Sole Source or Reduction Justification Form must be submitted. The following information is a guide for requesting the waiver or reduction of competitive bids on the RFP's for goods or services greater than \$50,000. The City may purchase goods and services through non-competitive negotiations when it is determined in writing by the City that competitive negotiation or bidding is not feasible and that:

1. SOLE SOURCE DEFINITION AND CRITERIA

A single supplier that is exclusively capable of meeting the City's requirements within the time available, including emergency and other situations which preclude conventional planning and processing. These situations include:

- a. One-of-a-Kind/Specialized - the commodity or service has no competitive product or must meet specialized seaport, boat, or marine requirements, or

specialized professional or technical services, and is available from only one supplier.

b. Compatibility - the commodity or service must match an existing brand of equipment for compatibility and is available from only one vendor.

c. Replacement Part - the commodity is a replacement part for a specific brand of existing equipment and is available from only one supplier.

d. Delivery Date only one supplier can meet necessary delivery requirements.

e. Emergency - URGENT NEED for the item or service does not permit soliciting competitive bids; including purchases needed to address major facility failures, damages due to disasters or purchases necessary to address immediate safety and security issues.

f. Only one satisfactory proposal is received through RFP or RFQ

g. The Federal or State awarding agency has authorized this particular type of noncompetitive negotiation.

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

Bids will be accepted only from those contractors who have a proven record of ability to successfully complete the scope of work being bid. References will be requested along with the contractor's bid proposal. Any contractors submitting a bid must produce (along with his/her bid documents) written proof of liability insurance and worker's compensation coverage. Consideration will be given to such matters as contractor integrity, compliance with public record of past performance and financial and technical resources in awarding contracts.

CONTRACTS

Generally, all procurement in excess of the Simplified Acquisition Threshold will be memorialized and supported by a written contract. Where it is not feasible or is impractical to prepare a contract, a written finding to this effect will be prepared and some form of documentation regarding the transaction will also be prepared.

A. All contracts will contain language which allows the City the opportunity to cancel any contract for cause. Said cause shall include (but not be limited to) demonstrated lack of ability to perform the work specified, unwillingness to complete the work in a timely fashion, cancellation of liability insurance or worker's compensation, failure to pay suppliers or workers, unsafe working conditions caused by the contractor, failure to comply with Davis-Bacon wage laws (where applicable), failure to keep accurate and timely records of the job, or failure to make those records available to the City (on request) or any other documented matter which could cause a hardship for the City if a claim should arise or the work not be completed on schedule at the specified cost.

B. All contracts will contain a termination for convenience provision, which allows the City to cancel the contract without fault on the part of the contractor. In the event of a termination for convenience, the contractor will receive reimbursement and/or pro-rate payment for costs and work done until the point of termination, but not anticipated profits on the work that was cancelled. The termination provision will specify the procedures for the contractor to submit a claim for termination costs,

C. Except as otherwise provided under 41 C.F.R, Part 60, all contracts that meet the definition of "Federally assisted construction contract" in 41 C.F.R. 604.3 must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth in 2 CFR 200.326. These provisions will be provided to all bidders

LOCALLY OWNED, MINORITY-OWNED, FEMALE-OWNED AND SMALL BUSINESSES - 2 CFR 200.321

All necessary affirmative steps will be taken and documented to solicit participation of small and minority businesses, women's business enterprises, and labor surplus area firms. Where possible and feasible, delivery schedules will be established, and work will be subdivided to maximize participation by small businesses or minority or women-owned businesses. Subdivided components will be bid on as a separate contract. A list of locally owned, minority-owned, female-owned, and small businesses and also minority businesses located within the trade region shall be used when issuing IFBs, RFPs and RFQs. This list shall also be consulted when making small purchases. The City will use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce when appropriate. The successful bidder will be required to use these same criteria in the selection of suppliers and subcontractors whenever possible.

Domestic Preferences for Procurement - 2 CFR 200.322

As appropriate and to the extent consistent with law, the City will, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). This requirement will be included in all subawards including all contracts and purchase orders for work or products under this award.

Procurement of Recovered Materials – 2 CFR 200.323

The City will comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, when required, as identified in the list of items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247.

Contract Cost and Price - 2 CFR 200.324

The City will perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The

method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the City will establish independent estimates before receiving bids or proposals.

The City will 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.

Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the City under subpart E of this part. The City may reference its own cost principles that comply with the Federal cost principles. (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

Federal Awarding Agency or Pass-Through Agency Review – 2 CFR 200.325

The City will make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or passthrough entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. The City will also make available upon request, for the Federal awarding agency or passthrough entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates.

BONDING REQUIREMENTS – 2 CFR 200.326

The City will ensure that all federally funded construction and facility improvements contracts include the following:

1. A bid guarantee from each bidder that is equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
3. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract

ADDITIONAL CONTRACT PROVISIONS – 2 CFR 200.327

City federally funded contracts are subject to a variety of required statutes, regulations, and contract clauses. While it is the responsibility of bidders and offerors to be aware of and comply with those requirements, City staff shall include applicable requirements in all City contracts to the maximum extent possible, either in full text, via addendum or attachment, or by reference, The list below is not exhaustive, and other provisions may apply based on the

type of work being performed and the dollar amount of the contract. The provisions below are common to many covered contracts:

A. Labor and Employment Laws and Regulations

A variety of construction and non-construction labor and employment laws and regulations are required as a condition of the City's Federal funding. These are assembled at 2 C.F.R. 200.326 and 2 C.F.R. Part 200, Appendix II, and include provisions related to Equal Employment Opportunity, Prevailing Wages, Antikickback provisions, Overtime and Work Safety requirements, and a variety of whistleblower protections. In dealing with all potential bidders and offerors, City Staff should ensure that the applicable requirements are included in all solicitations and contracts. To the extent possible, City Staff should highlight these requirements to bidders and offerors unfamiliar with or inexperienced in Federally funded projects.

B. Rights to Inventions Made Under a Grant or Contract

If a contract awarded by the City results in the creation of protectable intellectual property, including a patentable invention, copyrighted material, trade secret or technical data, or any other invention or discovery, the requirements of 37 CFR 401 may apply.

C. Environmental Regulations

Contracts over \$150,000 require the contractor to comply with the Clean Air Act and Federal Water Pollution Control Act. Specific provisions and requirements are set forth in 2 C.F.R. Part 200, Appendix II.

D. Contracting with Suspended or Debarred Persons or Entities

The City shall not enter into any agreement with any person or entity subject to Federal Debarment suspension, nor consent to a subcontract with any such person or entity. A list of all such persons or entities can be found at www.SAM.gov. The City should obtain written certification from all contractors that they are not suspended or debarred from federal procurements.

E. Byrd Anti-Lobbying Amendment

The following provision should be included in each contract over \$100,000 (Federal Byrd threshold):

"Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 5 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

Adopted by the City of Mineola, Texas on this _____ day of _____, 2024.

Jayne Lankford - Mayor

ATTEST:

Cindy Karch - City Secretary

CITY OF MINEOLA

Procurement Policies and Procedures for Federal Grant Contracts

Policies

1. Those closely involved in the establishment of the written selection criteria and selection shall have no potential conflicts of interest with any of the individuals, firms, or agencies under review (e.g., family relationships, close friendships, business dealings). Any person who might potentially receive benefits from grant-assisted activities may not participate in the decision-making process. Nepotism and conflict of interest regulations can be found in the Texas Government Code Chapter 573, Texas Local Government Code Chapter 171, and 2 CFR 200.318(c)(1).
2. All procurement transactions will be conducted in a manner providing full and open competition.
 - a. No unreasonable requirements are placed on firms in order for them to qualify.
 - b. No unnecessary experience or excessive bonding required.
 - c. Noncompetitive pricing practices between firms or between affiliated companies is disallowed.
 - d. Noncompetitive contracts are disallowed except for when there is an approved exception
 - e. No organizational conflicts of interest
 - f. If a "brand name" product is specified, an equal or like product is acceptable.
 - g. A vendor that intends to respond to the Request for Proposals, Request for Qualifications and/or Invitation for Bid may not participate in the development or drafting of specifications, requirements, statements of work, or invitations for bids or requests for proposals, including, but not limited to, the development of the scoring criteria, the final selection of firms to be contacted, or the scoring of proposals.
3. All procurement transactions shall incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured.
- 4.
5. All procurement transactions shall identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
6. If the City of Mineola uses a prequalified list when acquiring goods or services, the City of Mineola will ensure the list is updated regularly, provides enough qualified sources to ensure maximum open and free competition.
7. All procurement transactions must conform to applicable local, state, and federal laws and regulations.
8. Small and minority businesses, women's business enterprises, and labor surplus area firms are encouraged to participate. If the awarded vendor is a prime contractor and may use subcontractors, the following affirmative steps are required of the prime contractor:
 - a. 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 solicited 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;

- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Procedures

Procurement Cycle Steps

Need Defined—City of Mineola user department submits request and specifications. Purchaser reviews request and specifications for unnecessary or duplicative items in accordance with 2 CFR 200.318 (d).

Procurement Method Selected—Based on type and estimated cost of good/service as well as purchasing authority, purchaser determines the procurement method that will result in a best value acquisition for the City of Mineola.

Contract Cost and Price - A cost or price analysis must be conducted in connection with every procurement action more than the federal Simplified Acquisition Threshold including contract modifications (2 CFR 200.323).

The simplified acquisition threshold for federal procurement actions is currently set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908 as \$150,000, but this threshold is periodically adjusted for inflation. 2 C.F.R. §200.88

The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, an independent estimate must be made before receiving bids or proposals. 2 C.F.R. § 200.323(a).

Cost analysis is the evaluation of the separate elements (e.g., labor, materials, etc.) that make up a contractor's total cost proposal or price (for both new contracts and modifications) to determine if they are allowable, directly related to the requirement and ultimately, reasonable.

Price analysis is essentially price comparison. It is the evaluation of a proposed price (i.e., lump sum) without analyzing any of the separate cost elements of which it is composed.

Solicitation— City of Mineola creates the appropriate solicitation document, with terms and conditions and evaluation criteria clearly defined, and notifies vendor sources for an informal or formal bid process.

Receipt of Bids and Responses to Solicitation—Vendors submit their response to the solicitation.

Evaluation and Awards— City of Mineola reviews the responses from vendors, determines compliance with the solicitation and makes an award recommendation based on the pre-defined best value criteria.

Negotiation of Profit - Federal Guidelines require negotiations of profit as a separate element of the price for each contract and modification in which there is no price competition and, in all cases, where cost analysis must be performed. 2 C.F.R. § 200.323(b)

The City of Mineola will use one of the following five methods of procurement described at 2 CFR Section 200.320: (1) procurement by micro-purchases, (2) procurement by small purchase procedures, (3) procurement by sealed bids, (4) procurement by competitive proposals, or (5) procurement by noncompetitive proposals.

1. Simplified Acquisition Procedures for Purchases Below Micro-Purchase Threshold

For purposes of this section, the micro-purchase threshold is \$3,000.

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the City of Mineola must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

2. Small Purchase

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that cost less than the lesser of the Federal Simplified Acquisition Threshold or the \$50,000 threshold defined in state law (Local Government Code §262.003 for counties and §252.021 for municipalities). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

For service contracts that are under the small purchase threshold and do not fall under professional services as defined in Section 2254.002(2) of Local Government Code, the City of Mineola may receive quotes and award the contract to any reasonable and responsible bidder. The local governing body has the final authority to award contracts.

3. Construction and Materials Contracts

In order for sealed bidding to be feasible, the following conditions should be present:

- 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 the 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.

If sealed bids are used, the following requirements apply:

- a. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- b. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- c. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- d. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- e. Any or all bids may be rejected if there is a sound documented reason.

4. Professional Services Contracts

This method is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- b. Proposals must be solicited from an adequate number of qualified sources;
- c. The City of Mineola must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- d. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

- e. The City of Mineola 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.

5. Noncompetitive Proposals

This method may be used only when one or more of the following circumstances apply:

- a. The item is available only from a single source;
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request; or
- d. After solicitation of a number of sources, competition is determined inadequate.

These Policies and Procedures are implemented through the City of Mineola's administrative team and their titles are listed below.

City Manager

City Secretary

Director of Finance

Jayne Lankford - Mayor

Date

ADOPTED 4/22/2024