

ORDINANCE 2003-11

AN ORDINANCE AMENDING ORDINANCE 2002-04, "AN ORDINANCE PROVIDING FOR THE ADOPTION, BY REFERENCE, OF THE MODEL PROCUREMENT CODE; PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; AND PROVIDING FOR A SEVERABILITY CLAUSE, REPEALER CLAUSE AND AN EFFECTIVE DATE" BY ESTABLISHING REQUIREMENTS FOR COMMUNITY DEVELOPMENT BLOCK GRANTS; RESOLVING CONFLICTS WITH ORDINANCE 2002-04; PROVIDING FOR A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF RUSSELLVILLE, KENTUCKY THAT:

WHEREAS, the City of Russellville, Kentucky, has previously adopted Ordinance 2002-04 which promulgated a Model Procurement Code for the City of Russellville, Kentucky; and,

WHEREAS, the United States Department for Housing and Urban Development ("HUD") administers Community Development Block Grant ("CDBG") Funds; and,

WHEREAS, in order for the project known as the "Harrison-Hite Building" to be eligible to receive CDBG funds, HUD requires that amendment be made to Ordinance 2002-04 as it relates to any and all HUD projects for which CDBG funds are being used; and

WHEREAS, City Council in and for the City of Russellville, Kentucky supports this amendment and believes it to be in the best interest of the health, safety and welfare of the City;
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF RUSSELLVILLE, KENTUCKY, AS FOLLOWS:

A. New Legislation:

Ordinance 2002-004 is hereby amended to create a new Section III which shall read:

Section III COMMUNITY DEVELOPMENT BLOCK GRANT PROJECTS

1. The City of Russellville, Kentucky, shall adhere to the attached "Procurement Standards" which are hereby incorporated by reference as if fully rewritten herein, for all CDBG Projects.

2. This Section is intended to supplement and compliment Ordinance 2002-04. To the extent of any conflict of this Ordinance with Ordinance 2002-04, this Ordinance shall prevail.

B. SEVERABILITY CLAUSE

If any court of competent jurisdiction shall rule any clause, provision or section of this ordinance void or unenforceable, the remainder hereof is intended to be enacted and shall be in force and effect notwithstanding.

C. EFFECTIVE DATE

This ordinance shall be effective upon its passage and publication as required by law.

FIRST READING conducted the 8th day of July, 2003.

SECOND READING CONDUCTED AND PASSAGE by roll call vote this 22nd day of July, 2003.

AYES: Barrett, Ken; Bell, Patricia; Hankins, Jean; Jones,
Russell; Sweatt, Marie; Wren, Howard

NAYS: none.

ABSENT: none.

ABSTAINING: none.


SHIRLEE YASSNEY, MAYOR

ATTEST:


PEGGY S. JENKINS, CITY CLERK

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SHIRLEE YASSNEY, MAYOR

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**PROCUREMENT STANDARDS
CITY OF RUSSELLVILLE
HARRISON-HITES CDBG PROJECT**

All procurements made by the City of Russellville (hereafter referred to as "City") involving the expenditure of local, State and Federal funds on CDBG Project #02-013 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 City of Russellville shall not engage in procurement practices that may be considered restrictive in trade.

Purchases will be reviewed by the Treasurer 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

For purchases of less than \$50, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

Purchases that cost more than \$50 but less than \$20,000 require quotations of rate, price, etc., but no legal advertisement is required. The City will solicit responses from at least three vendors. If written responses are not available, a statement explaining the procurement will be prepared and filed. If quotations are obtained via telephone, a memorandum will be prepared setting forth the date the calls were made, parties contacted, and prices obtained.

The City will make the award to the lowest responsive and responsible source, and enter into a contract formalizing the scope of work and terms of compensation.

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 \$20,000, an Invitation for Bids (IFB) notice will generally be prepared. Per KRS 424.120, this notice will be published at

least once in a qualifying 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. In addition, the City must also solicit sealed bids from responsible prospective suppliers by distributing a copy of such notice to them.

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 that calls to the attention of bidders all applicable requirements that 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.

Sealed bids will be opened in public at the time and place stated in the IFBs. The city will tabulate the bids 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 city. The city will make a firm fixed-price contract award in writing to the lowest responsive and responsible bidder. After the City makes the bid award, 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 in writing that such is in the best interests of the City. 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.

In the event that all bids exceed available funds, the City may enter into negotiations with bidders in accordance with KRS 45A.375.

C. COMPETITIVE NEGOTIATION

The City 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 a qualifying official 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 by the review committee to be most advantageous to the program, with price and other factors considered. 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 architectural/engineering (A/E) professional services, an alternative to RFPs may be used. The City 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 \$20,000 when sealed bidding or competitive negotiations are not feasible. The City may purchase goods and services through non-competitive negotiations when it is determined in writing that competitive negotiation or bidding is not feasible and that one of the following circumstances applies:

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. Only one satisfactory proposal is received through RFP or RFQ, or
4. The state has authorized the particular type of non-competitive negotiation (e.g., - 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 \$500 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 a purchase order regarding the transaction will also be prepared. The contractual provisions required by "The Common Rule" will be included in all contracts and purchase orders.

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 City will participate or have an interest in the selection or in award or administration 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 City, partners of such individuals, immediate family members within a first degree relationship by affinity or consanguinity, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the firms selected for an award.

B. ACCEPTANCE OF GRATITUDES

No elected official, employee or designated agent of the City 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 City who knowingly and deliberately violates the provisions of this code will be open to civil suit without the legal protection of the City. Furthermore, such a violation of these procurement standards is grounds for dismissal by the City.

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.

ADOPTED THIS ___ DAY OF _____, _____.

(Mayor/Judge Executive)