

VILLAGE OF MAYVILLE
PROCUREMENT POLICY

I. PURPOSE

This Procurement Policy (“the Policy”) is enacted to assure that the Village of Mayville maintains lawful, prudent, and ethical methods to procure or dispose of supplies, materials, equipment, contract services, and construction projects for the Village. This Policy shall provide the general framework for the purchasing and sale of materials, supplies, equipment, and property of the Village. The designated officer responsible for serving as the Purchasing Agent is the Village President or her designee. By adoption of this Policy, the Village of Mayville Village Council (“Village Council”) has determined that the best interests of the citizens of the Village are served by enactment of this Policy. Future amendments of this Policy may be accomplished by Council action, which shall be provided by a formal resolution. This Policy, together with any amendments, shall be kept by the Village Clerk/Treasurer as the official Procurement/Purchasing Policy of the Village.

II. PURCHASING

- A.** All purchases require that the appropriate funds are budgeted, and sufficient funds are available at the time of purchase.
- B.** No employee or person shall make purchases or commit Village funds without authorization, unless otherwise permitted herein.
- C.** All purchases that require a check drawn on Village funds shall have an accompanying purchase order presented prior to the processing of the check.
- D.** All employees/designated persons making purchases or presenting claims less than \$20.00 are encouraged to seek reimbursement from the appropriate petty cash fund.
- E.** Employees/designated persons are authorized to make purchases of goods and services up to \$100.00 with their Department Head or the Village President’s approval.
- F.** Department Heads are authorized to make purchases of goods and services up to \$500.00 provided the funds are budgeted and available.
- G.** The Village President is authorized to make purchases of goods and services up to \$2,000.00 provided the funds are budgeted and available.
- H.** The Village President is authorized to make emergency purchases of goods and services up to \$5,000.00.
- I.** The Village President is authorized in the course of her duties to make expenditures within the bounds established by the line items of the Village budget.
- J.** Expenditures greater than those listed above within a specific cost center of a fund budget requires the approval of the Village President.
- K.** Expenditures greater than what the Village has budgeted within its various fund budgets requires the Village Council approval in advance of any purchase or commitment of funds.
- L.** Progressive or repeated purchasing from the same vendor is reviewed for processing at the anticipated annual amount purchased.

M. The Village President shall report to Council the details of all purchases of goods and services or commitment of funds in excess of \$2,000.00 that exceed the scope of the line items of the approved budget.

N. The Village President may impose a spending freeze on all discretionary purchasing if instructed by Council or if she determines it is in the best interest of the Village.

III. FISCAL POLICIES

A. All purchases must have an accompanying receipt or invoice prior to issuing a check.

B. All purchases above \$500.00 must have an accompanying *detailed* receipt or invoice prior to issuing a check.

C. All planned expenditures above \$2,000.00 must have three accompanying quotes prior to selecting a vendor. The quotation selected is the one that provides the highest acceptable quality at the lowest price.

D. All planned expenditures above \$5,000.00 must have three detailed written quotes prior to selecting a vendor. The quotation selected is the one that provides the highest acceptable quality at the lowest price.

E. The requirement of having three quotes in section C. and D above may be waived if in the opinion of the Village President efforts to obtain three quotes were exhausted or are impractical to obtain.

F. All expenditures above \$5,000.00 must have an accompanying contract prior to any payments for purchases or services unless waived by the Village President when deemed impractical or otherwise inappropriate. All contracts above \$5,000.00 require Village Council approval unless stated otherwise herein.

G. All checks issued by the Village shall have two authorized signatures recorded on its front surface before the check is valid.

H. All checks issued by the Village in excess of \$1,000.00 shall have the signature of the Village President or her designee.

I. Employee reimbursements, except those reimbursed from a petty cash fund, in amounts less than \$100.00 are paid the last week of the month for those expenses occurred during that month. Reimbursements greater than \$100.00 will be made according to the policy described herein.

J. All purchases in excess of \$10,000.00 requires the development of a Request for Quotation, Request for Proposal, or Request for Bid except when deemed impractical or otherwise inappropriate by the Village President or in the case of an emergent need.

IV. BID PROCEDURE

A. A notice inviting bids shall be published in a local publication(s) at least once, not less than 30 and not more than 45 days before the date for filing bids in a newspaper is in general circulation in the Village of Mayville.

B. Bids shall be solicited from responsible prospective suppliers who have requested that their names be added to the bidder's list. Invitations shall be limited to vendors

whose commodities or services are similar in character and ordinarily handled by the trade group to which the invitations are sent.

C. Bids shall be sealed and identified as a bid on the envelope and submitted to the Village Clerk.

D. Late bids, at the Village's discretion, may be returned unopened to the bidder.

E. Purchases of supplies, equipment, and contractual services greater than \$10,000.00 must be from sealed bids/proposals. In any case where competitive bidding is not practical or it is to the Village's advantage to contract without competitive bidding, the Village, upon recommendation of the Village President, may authorize the execution of a purchase without competitive bidding.

F. All bid openings are conducted by the Village Clerk with a representative of the department making the purchase present.

V. AWARD OF CONTRACT AND REJECTION OF BID

A. The Village shall have the authority to reject any and all bids when the best interest of the public or the Village is served.

B. The Village shall not accept the bid of a contractor who is in default on the payment of taxes, licenses, or other monies due the Village.

C. In determining the best responsible bidder, in addition to price, the Village shall consider the ability, capacity, and skill of the bidder to perform as contracted; whether the bidder can perform in a timely manner consistent with Village requirements; the character, integrity, reputation, judgment, experience, and efficiency demonstrated by the bidder; the performance experienced with previous contracts; and the predictable ability of the bidder to provide future maintenance and service.

D. When the award is not given to the lowest bidder, a statement of the reasons for placing the order with the successful contractor shall be prepared and filed with other award documentation.

E. After a bid is awarded, a contract will be executed with the successful bidder. A performance bond, certificate of liability insurance or worker compensation may be required if applicable and appropriate for the contracted service.

VI. MISCELLANEOUS PROVISIONS

A. The Village shall have the authority to require a performance bond before entering a contract in an amount necessary to protect the interests of the Village.

B. The Village shall have the authority to join with other units of government in a cooperative purchasing plan when the best interest of the Village would be served.

C. Only the Village President is authorized to purchase legal or professional services that are not otherwise already contracted for execution.

VII. CONFLICT OF INTEREST

1) Employees

A. No employee will participate directly or indirectly in a procurement when the employee knows that the employee or any member of the employee's immediate family has a financial interest in the procurement; when a business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or when any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

B. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file a written statement of disqualification and shall withdraw from any further participation in the transaction involved. Failure to do so could result in immediate dismissal.

2) Conflict of Interest – Councilpersons

A. The Village of Mayville can enter into a contract with a vendor which a councilperson has a conflict of interest as defined herein. In entering into a contract with this vendor the councilperson must not vote on the contract and must disclose any pecuniary interest.

VIII. CODE OF CONDUCT

No employee, officer, or agent of the Village of Mayville may participate in the selection or in the award or administration of a contract supported by Disaster Recovery CDBG funds if a conflict of interest, real or apparent, would be involved. Such a conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/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.

No officer, employee or agent of the Village of Mayville shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements, except where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

Any alleged violations of these standards of conduct shall be referred to the Village of Mayville Attorney. Where violations appear to have occurred, the offending employee, officer or agent shall be subject to disciplinary action, including but not limited to dismissal or transfer; where violations or infractions appear to be substantial in nature, the matter may be referred to the appropriate officials for criminal investigation and possible prosecution.

IX. PROCUREMENT PROCEDURES

The director or supervisor of each department or agency of the Village of Mayville responsible for procurement of services, supplies, equipment, or construction obtained with Disaster Recovery CDBG funds shall review all proposed procurement actions to avoid the purchase of unnecessary or duplicative items. Such reviews shall consider consolidation or breaking out to obtain a more economical purchase. When determined appropriate by the

Director or Supervisor, an analysis to determine which approach would be the most economical shall be undertaken.

The Village of Mayville shall take affirmative steps to assure that small and minority firms, women's business enterprises, and labor surplus firms are solicited whenever they are potential qualified sources. The Village of Mayville shall also consider the feasibility of dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority firms, women's business enterprises, and labor surplus firms. Where permitted by regulations, delivery schedules will be developed which will include participation by such businesses.

The Village of Mayville shall assist the prime contractor whenever possible by providing copies of lists which identify qualified small and minority firms, women's business enterprises, and labor surplus area firms.

X. SELECTION PROCEDURES

All procurement carried out with Disaster Recovery CDBG funds, where the Village of Mayville is a direct party, shall be carried out in a manner that provides maximum free and open competition. Procurement procedures will not restrict or eliminate competition. The Village of Mayville shall not place unreasonable requirements on firms in order for them to qualify to do business. Nor will the Village of Mayville encourage or participate in noncompetitive practices among firms. The Village of Mayville is alert to organizational conflicts which would jeopardize the negotiation process and limit competition. The Village of Mayville will not require unnecessary experience or bonding requirements.

Pursuant to state law and federal regulations (24 CFR 85.36(b)), all solicitations of offers shall incorporate a clear accurate description of the technical requirements for the material, service, or product to be procured. In competitive procurements, these descriptions shall not contain features which unduly limit competition. The description may include a statement of the qualitative nature of the material, product, or service and the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications shall be avoided whenever possible. A "brand name or equal" description may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

All solicitations of offers shall clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids, proposals, or statements of qualifications. Contracts shall be awarded only to responsible contractors/firms that possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such factors as the contractor's/firm's capacity, integrity, compliance with public policy, record of past performance, and financial and technical resources.

XI. METHODS OF PROCUREMENT

Direct procurement by the Village of Mayville shall be made by using one of the following methods depending on the type of service to be procured.

Small Purchase Procedures. As described herein, relatively simple, informal procurement procedures will be used where the purchase of materials, single task services, supplies, equipment, and/or other property will not cost in the aggregate more than \$100,000, except where further limited by state law or local policy. The procurement officer must obtain a minimum of three oral or written price or rate quotations from qualified sources. Documentation on all quotations received (whether oral or written) shall be made a part of the file. Selections shall be made principally, but not solely, on price. Payment shall be made upon delivery or completion.

Competitive Sealed Bids/Formal Advertising. Under this procedure bids are publicly advertised in accordance with the applicable laws and as described herein. A firm fixed price contract (either lump sum or unit price) shall be awarded to the responsible bidder whose bid is lowest in price and that conforms to all the material terms and conditions of the advertisement for bids, unless otherwise described herein.

Competitive sealed bids can be used ONLY when the following criteria are met: (1) there are complete, adequate, and realistic specifications or purchase descriptions; (2) there are two or more responsible bidders who are willing and able to compete effectively; (3) the procurement can be made on a firm fixed-price contract and selection of the successful bidder can appropriately be made principally on the basis of price.

When formal advertising is used the following conditions shall be met.

- i. The advertisement for bids shall be publicly advertised.
- ii. The advertisement for bids, including the specifications and pertinent attachments, shall clearly define the items, end products or services needed in order for the bidders to properly respond to the advertisement.
- iii. All bids shall be opened publicly at the time and place specified in the advertisement for bids.

A firm fixed-price contract award shall be made by written notice to the lowest responsive and responsible bidder whose bid conforms to the advertisement for bids, and all other applicable provisions contained herein. Notwithstanding the above, any or all bids may be rejected when there are sound documented business reasons in the best interest of the Disaster Recovery CDBG Program or the Village of Mayville.

“Responsible bidder” refers to the character or quality of the bidder -- whether it is an entity with which the Village of Mayville is safe doing business.

“Responsive bidder” refers to whether or not the bidder has offered to the Village of Mayville in its bid what was asked for in the specifications.

Disqualification of a bidder for lack of responsibility will require notice to the bidder and the opportunity for a hearing. Rejection of a bid because of unresponsiveness requires only that bidder be informed of why bid was rejected.

Competitive Negotiation: Requests for Proposals/Qualification Statements. The technique of competitive proposals is normally conducted with more than one source submitting an offer. All competitive proposals shall be conducted using a formal RFP/RFQ containing at least the minimum items in the attached RFP/RFQ Outline (See Attachment A). Architectural and engineering services must be procured via requests for qualification statements; administrative consulting and other professional services must be procured via requests for proposals, unless otherwise described herein. The Village Council shall have sole discretion in the selection of the Village of Mayville Village Attorney and said selection does not require an RFP/RFQ or other similar process. Other professional services may also be procured by requests for proposals. The following procedures will be used for competitive negotiation:

- i. Requests for proposals or qualification statements will be adequately publicized to achieve sufficient competition. All submittals will be honored and entered into the competition so long as the submittal qualifies with the requirements for the proposal/submission and the requirements described herein.
- ii. Request for proposals or qualification statements shall contain a detailed list of tasks in the proposed scope of work that is expected to be accomplished.
- iii. The request for proposals or qualification statements shall identify all significant evaluation factors or selection criteria, including the corresponding point system that will be used to rate the proposals/qualification statements. Requests for proposals shall always include cost and at least one non-cost evaluation factor.
- iv. The selecting official (or committee, if one is designated) shall review all proposals and statements received and make a technical evaluation of each. This shall also include a written statement that identifies the basis upon which the selection was made; including the importance of cost (for RFPs).
- v. Contract award will be made to the responsible offeror whose submission is deemed most appropriate to the Village of Mayville with consideration for price, qualifications, and other factors set by the Village Council. Unsuccessful offerors shall be notified in writing within ten working days of contract award. Documentation of notification shall be maintained in the contract selection file for the individual project.

For qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, at least three firms will be solicited, where practicable. Following the review of the qualification statements received, the most qualified competitor will be selected to enter into contract negotiation. This shall always include negotiation of price to ensure cost reasonableness. At the

conclusion of successful negotiation, the competitor shall be invited to enter into a contract only where it is deemed to be in the best interests of the Village of Mayville to do so.

XII. CONTRACT PRICING

The Village of Mayville shall perform cost or pricing analysis in connection with each procurement action including contract modifications in accordance with the requirements of “Cost and Price Analysis for HUD Grantees and Funding Recipients”. [See Attachment C] Costs or prices based on estimated costs for Disaster Recovery CDBG projects shall be allowed only to the extent that the costs incurred or the cost estimates included in negotiated prices are consistent with federal cost principals[48 CFR Part 31]. Lump sum prices will only be utilized when there is a definable work product and the quantity to be provided is certain and the contractor assumes all the risk for costs incurred. Unit prices can be utilized when there is a definable work product and the contractor assume all the risk for costs incurred, but the quantity is estimated. Cost reimbursement will be utilized when the task does not result in a definable work product or the contractor will not assume the risk of incurring the cost to complete the task. Cost reimbursement, unit or lump sum price, or a combination thereof may be utilized as appropriate.

A cost reimbursement type contract is most appropriate when the scope and extent of the work to be performed are not clearly defined, such as a professional services contract. A cost reimbursement contract must clearly establish a cost ceiling which may not be exceeded without formally amending the contract, and must identify a fixed dollar profit that may not be increased unless there is a contract amendment that increases the scope of the work.

A fixed price contract is appropriate when the scope of work is very well defined and product oriented. A fixed price contract can only be awarded when fair and reasonable prices can be established through adequate price competition and the solicitation is based principally on price. A fixed price contract must establish a guaranteed price that may not be increased.

Cost plus percentage of cost and percentage of construction cost methods of contracting must not be used.

XIII. PROCUREMENT RECORDS

The Village of Mayville shall maintain records sufficient to detail the history of the procurement. The records will include the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection and the basis for the contract price

XIV. CONTRACT PROVISIONS

The records shall include the following contract provisions and conditions:

- i. Contracts other than small purchase shall contain provisions that allow for administrative, contractual, or legal remedies if contractors violate or breach contract terms and provide for sanctions and penalties as appropriate.

- ii. All contracts in excess of \$10,000 shall provide for termination for cause and for convenience by the Village of Mayville including the manner in which it will be done and the basis for settlement.
- iii. All construction contracts and subcontracts in excess of \$10,000 shall include provisions which require compliance with Executive Order 11246, Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented in DOL regulations (41 CFR Part 60).
- iv. All contracts and subcontracts for construction or repair shall include a provision for compliance with the Copeland “Anti-Kick-Back” Act (18 USC 874) as supplemented by DOL regulations (29 CFR Part 3).
- v. All contracts or subcontracts in excess of \$2,000 for construction or repair shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by DOL regulations (29 CFR Part 5).
- vi. All construction or repair contracts or subcontracts in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers, shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by DOL regulations (29 CFR Part 5).
- vii. Each contract shall include a notice of DCEO requirements and regulations pertaining to reporting and patent rights under any contract involving respect to any discovery or invention which arises or is developed in the course of or under such contract, and of the state requirements pertaining to copyrights and rights in data.
- viii. All negotiated contracts shall include a provision that makes it possible for the DCEO, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to have access to any books, documents, papers, or records of the contractor/firm that are directly pertinent to the contract, for the purpose of making audit examination excerpts and transcriptions. Further, the contract must include a provision that all required records will be maintained by the contractor/firm for a period of four years after the Village of Mayville formally closes out each Disaster Recovery CDBG program.
- ix. All contracts, subcontracts, and subgrants in amounts in excess of \$100,000 shall contain a provision which requires compliance with the requirements of Section 306 of the Clean Air Act (42 USC 1857 h), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
- x. Contracts shall recognize mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

- xi. The Village of Mayville will be permitted to require changes, remedies, changed conditions, access and record retention, and suspension of work clauses approved by the Village Council.

XV. CONTRACT ADMINISTRATION

The Village of Mayville shall maintain contract administration systems that ensure contractors/firms perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. The accepted performance of contractors/ firms will be a factor in subsequent contract negotiations and award. Remedial action by the Village of Mayville through legal processes shall be considered in instances of identified significant nonperformance.

XVI. PROTEST PROCEDURE

Any person who is aggrieved in connection with the solicitation or award of a contract shall make a protest to the Village President. Protest with respect to a solicitation shall be submitted in writing at least two working days prior to the opening of bids. Protest with respect to the award of a contract shall be submitted in writing within ten calendar days after the contract award.

**PROCUREMENT POLICY
ATTACHMENT A – RFP/RFQ OUTLINE**

Under the federal procurement regulations professional services are typically procured through the competitive proposal or request for proposal method [24 CFR 85.36(d)(3)]. A well-written RFP or RFQ will contain all of the information the proposers need to know in a manner that captures interest and is easy to follow. The RFP or RFQ will consist of an introduction and six sections, each of which is summarized briefly on this page:

All RFPs or RFQ issued by the Village of Mayville for professional services will at minimum contain the following items:

1. Advertisement/Purpose (Introduction) – Will include a Cover Letter to summarize the services being solicited and the due date for proposals.
2. Program Information – Will include an overview of the grant/project status and a summary of the roles and responsibilities of all involved parties to provide the context for the solicited services and capture the interest of potential respondents.
3. Scope of Services - Will include an overview of the solicited services, summarize general expectations, specify the anticipated role of the selected firm, and provide a detailed list

of tasks to be accomplished. Should be connected to the fee proposal and be detailed enough to be in the final contract.

- Statement of Work (RFP only): All tasks the selected consultant will be expected to perform will be listed in detail. The List must be detailed enough for consultant to provide price or estimated cost for the services.

4. Submission and Evaluation Requirements – Will describe what sections should be included in the proposal (e.g. approach, organization chart or staffing plan, fee proposal (RFP only), etc.) and what information each of those sections should contain. Also, the criteria the Committee/Village Council will use to evaluate the proposal and the weights for each criterion will be described. Submission requirements and evaluation criteria should be linked.

- Approach section (RFP): For each task identified in the scope of work, respondent is to describe how they would accomplish the task(s).

- Project staffing: Respondent will be asked to include an organization chart, names and roles of principal staff members, time commitments for principal staff members, and attach resumes.

- Qualifications: Respondent will be asked to include project summaries the respondent's relevant experience, organized by firm or by type of experience.

- Fee proposal (RFP only): Respondent will be asked to provide a price for services described in the approach, broken out by task.

- Evaluation Criteria: The criteria on which the proposals will be evaluated (e.g. creativity of approach, reasonableness of fee, quality of relevant qualifications, previous experience, etc.) will be listed and the weighting for each criteria given.

5. Schedule and Required Information – Will provide information about the procurement not related to the actual project. This includes a schedule/timetable for the procurement, information on written questions and pre-proposal conference, contractual obligations, information on conflict of interest, and all other required clauses.

6. Attachments - Provide any required forms (e.g., where applicable, form for fee proposal or Certifications/Assurances), further clarify the expectations by including a sample contract, copies of the roles/ responsibilities checklist, and/or scopes of work for other consultants, and include more detailed information on the project (e.g. application or project summary).

PROCUREMENT POLICY
ATTACHMENT B – Sealed Bid Requirements and Procedures

Under the federal procurement regulations construction services are required to be procured through the competitive sealed bid method [24 CFR 85.36(d)(2)]. This method is also required for the procurement of equipment and supplies over \$100,000.

Sealed Bid Requirements

1. Advertisement or bids- instructions to potential bidders including: Location and time and date for submission; availability of bid documents and duration of public inspection, deposit(s) and other bidding requirements; notice of Federal contract requirements.
2. Information for Bidders- instructions to potential bidders including: bid preparation requirements; details for price submission; bidder qualifications, bid security requirements, timelines for bid and contract award; liquidated damages provisions; conditions of work; addenda and interpretations; security for performance; power of attorney; governing laws and regulations; method of bid award; and obligations of bidders.
3. Requirements for a Bid Guarantee. The “bid guarantee” shall 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 his bid, execute such contractual documents as may be required within the time specified.
4. Requirements for a Performance Bond. 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 obligations under such contract.
5. Requirements for a Payment Bond. 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.
6. Requirements for a Certificate as to Corporate Principal.
7. Requirements for a Public Work Bid, including acceptable pricing format.

Sealed Bid Procedures

The sealed bid solicitation will be published at least once, not less than 30 and not more than 45 days before the date for filing bids in a newspaper is in general circulation in the Village of Mayville. Preference should be given to a newspaper published daily if available.

The sealed bid solicitation will ensure the complete plans and specifications will be available on the date of the first advertisement. The advertisement for the sealed bid solicitation will indicate where specifications can be obtained and when and where bids will be received and opened.

All sealed bids received will be date and time stamped upon receipt.

Any sealed bid which does not arrive at the designated place by the appointed time will not be considered and will not be opened. The bid will be marked by the time received and returned to the bidder unopened.

All bids will remain confidential until the public bid opening.

All bids submitted on time will be publicly opened and the sealed bids read aloud.

Where specified in the bid documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts shall only be used to determine low bid when prior experience indicates that such discounts are generally taken.

After approval by the Village Council, a firm fixed price award in writing to the lowest responsive bidder whose bid conforms to the advertisement for bids will be made.

A bid abstract of the bid opening will be maintained. At a minimum it will include the following:

- date, time, and location of the bid opening;
- a listing of all bids received and the amounts of their bids
- a listing of all persons present;
- a tabulation of the bids opened;
- the award decision

Unsuccessful bidders will be promptly notified in writing.

PROCUREMENT POLICY

ATTACHMENT C – HUD Guidance on Cost Price Analysis

Under the federal procurement regulations grantees are required to perform a cost price analysis on every procurement action [24 CFR 85.36(f)]. HUD has provided a guide to recipients to meet this requirement. The important sections of which are provided below.

Quick Guide to Cost and Price Analysis for HUD Grantees and Funding Recipients

What is price analysis?

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 that it is composed of.

What is cost analysis?

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, directed related to the requirement and ultimately, reasonable.

Is cost or price analysis always required?

Yes. HUD's regulations at 24 Code of Federal Regulations (CFR) Part 84, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and 24 CFR Part 85, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," require grantees to perform a cost or price analysis for *every* procurement action, including contract modifications (e.g., "change orders"), using HUD grant funds.

When do I perform a price analysis?

You use price analysis whenever you are comparing lump sum prices – not cost estimates - received from contractors in a competitive pricing situation (e.g., when sealed bids are obtained).

What qualifies as competition?

Generally, competition means two or more responsible (e.g., not debarred or suspended, etc.) offerors ("bidders"), competing independently, submit priced offers that satisfy the grantee's contract requirement. Obviously, the greater the number of offers received, the greater the competition and ideally, the better the pricing.

When do I perform a cost analysis?

Cost analysis is used whenever you do not have price competition. A cost analysis is required when:

- Using the *competitive proposal* (or "negotiated") method of contracting (see 24 CFR 85.36(d)(3) for a definition), e.g., for acquiring professional, consulting or

architect/engineering (A/E) services. **Under the competitive proposal method, offerors are required to submit cost proposals that show the elements (e.g., labor, materials, overhead, profit) of their proposed costs or price. SEE FORMAT BELOW.**

- Negotiating a contract with a **sole source**, i.e., not soliciting competitive bids or offers. When a sole source is appropriate and justified (see 24 CFR 85.36(d)(4)), you must obtain a complete cost breakdown from the sole source contractor and perform an analysis using the cost principles to establish a fair and reasonable price or estimated cost.
- After soliciting competitive sealed bids, you receive **only one bid**, and it differs substantially from your independent estimate of the contract price. If you determine that the bid is unreasonable and decide to not recompete (e.g., market survey tells you that you wouldn't get competition), then you may formally cancel the solicitation and negotiate a contract price with the single bidder. In that case, you must obtain a cost breakdown of the single bid price and use cost principles to determine if that price is reasonable.
- Negotiating a **modification** (including change orders) to *any* type of contract, if the modification changes the work authorized under the contract, and changes the price or total estimated cost, either upwards *or* downwards. You must obtain a detailed breakdown of the contractor's proposed cost - not a lump sum proposal – before negotiating the change in contract price.

CAUTION: *Modifications that change the work beyond the scope of the contract must be justified in accordance with the conditions set forth in 24 CFR 85.36(d)(4) or 24 CFR 84.43. If the out-of-scope change cannot be justified, you must procure the work competitively.*

Do I need to analyze and negotiate profit separately?

Whenever you are required to perform a cost analysis, and you are negotiating a contract action that provides for a profit or fee, you must negotiate profit separately. When negotiating profit, you should consider **all** of the following:

- The complexity of the work to be performed. The more difficult the work, the more profit a contractor may be entitled to.
- Contractor's risk. How much risk – either performance or cost to the contractor - will the contract create? The higher the risk, the higher the reward, i.e., profit.
- Contractor's investment (labor, oversight, etc.). How much and what type of resources will the contractor have to dedicate to performing the contract? The greater the investment of resources the more profit.
- Subcontracting. The amount of profit depends upon the size, nature and oversight needs of the subcontracts the contractor will use. Will the contractor perform most of the work, or will he/she sub out some of it, and if so, how much? Will subcontracted work be routine or complex? What amount and level of oversight and management will subcontracted work require of the contractor? Simple subcontracts for routine supplies of services should not be worth as much profit as complex subcontracts that require a lot of oversight by your own highly skilled staff or management.
- Quality of the contractor's past performance. Profit should reward the contractor for a proven record of high quality performance. A consistent record of delivering quality

goods or services on time within cost, indicates that the contractor will likely “deliver the goods” to you, too. (Note: You probably won’t be considering a poor performer for a new contract award.) Performance under the current contract must be considered when negotiating a modification.

- Industry profit rates in the surrounding geographical areas for similar work. What’s the “going rate,” especially for standard, more commercial types of work? **CAUTION:** Be careful to not pay going rates when the work required is not really covered by those rates, e.g., paying specialty rates for routine work.

CAUTION! The “cost-plus-a-percentage-of-cost” and “percentage-of-construction-cost” contract types are prohibited. (See also 24 CFR 85.36(f)(4), and 24 CFR 84.44(c).) These types of contracts reward contractors for incurring greater costs, which is just the opposite of what is in your, the buyer’s, best interest.

How do cost analysis and price analysis apply to the different contracting methods?

- *Small Purchases.* For routine, commercial type purchases, comparing price or rate quotes obtained from an adequate number of qualified vendors is sufficient price analysis. If the small purchase is for professional or technical services, or the HA needs to evaluate other factors than price, then at least a limited cost analysis is appropriate. In either case, the HA’s analysis should include comparing the proposed prices to past prices it has paid for the same or similar items or services.
- *Sealed Bidding.* This is the preferred method for contracting for supplies, equipment and construction. (See 24 CFR 85.36(d)(2) for a definition.) Normally, the competitive pricing forces of the marketplace determine the reasonableness of the low price obtained through sealed bidding. Nevertheless, the HA should always compare its own independent cost estimate to the low competitive bid received. In the event they are significantly different, the HA will need to examine each to verify that either its own estimate or the market price is valid. Otherwise, no further price or cost analysis is required under sealed bidding.

CAUTION! When only one bid is received in response to a competitive bid solicitation, you do not have price competition. If you decide to award on the basis of a single submitted bid price, i.e., without negotiation, you must justify that the price is fair and reasonable. At a minimum, you should compare the bid price to your own in-house estimate and past prices paid for the same or substantially similar item(s) in the past.

You should also try to obtain information from the marketplace, if you have not already done so in developing your own estimate. If you decide to cancel the sealed bid and negotiate a contract price with the single bidder, you must obtain a complete cost breakdown and perform a cost analysis of the proposed price. If the bidder refuses to provide a breakdown of his/her costs, you may have no other choice than to resolicit bids. In any case, you must document the rationale for your award decision.

- *Competitive Proposals.* This method is most often used to contract for professional, consulting, and architect/engineering (A/E) services. (See 24 CFR 85.36(d)(3) for a definition.) To determine the reasonableness of proposed costs, you must obtain cost breakdowns from the offerors showing all the elements of their proposed total costs and perform a cost analysis of each proposal using the appropriate set of cost principles (discussed below).

NOTE! *When awarding a contract using the competitive proposal method, the type of contract (e.g., firm fixed-price or cost-reimbursement) you propose to award does not affect the requirement for a cost analysis. For example, if you intend to award a firm fixed-price contract via the competitive proposal method, you still must analyze all of the proposed costs contained in each offeror’s price. However, you are not required to negotiate each individual cost element in arriving at an agreement on total price. The final price you negotiate with the contractor on a fixed-price contract normally reflects agreement only on the total price. Therefore, the overall objective should be to negotiate total prices that are fair and reasonable.*

NOTE! *In certain cases, the contract may specify separately priced items. This is commonly done in indefinite- delivery (e.g., indefinite-quantity, sometimes called job order, or “open ended”) contracts. Under these contracts, the HA orders pre-priced items on an as-needed basis, up to a stated maximum quantity. For these contracts, agreement must be reached on each item’s price before award and the prices included in the final contract document.*

ATTACHMENT C.1

Format for Cost Analysis

- Develop a detailed list of tasks and subtasks, based on the services requested in the RFP/RFP.
- Estimate the number of hours needed to complete each task and divide among staff with a variety of hourly rates.
- Estimate materials, supplies, services or other direct costs for to complete each task.
- Apply overhead rate *if applicable* to appropriate cost base for each task.
- Apply profit rate *if applicable* to appropriate base for each task.
- Sum all the elements of cost and profit for the task.

Contract Task 1: **Proposal Review**

Labor Cost	
Estimated 10 proposals x 4 hours per proposal for Assistant Planner @ \$20 per hour	800.00
Estimated 10 proposals x 1.5 hours per proposal for Senior Planner @ \$32.50 per hour	487.50
Fringe Benefit @ 22% of Direct Labor Cost	383.25
Total estimated Direct Labor Cost for completing Proposal Review Task	1,670.75

Materials and Services Cost	
Estimated 15 copy pages per proposal x 10 proposals @ \$.32 per page	48.00
Estimated printing cost per proposal summary @ \$3.50 ea x 10	35.00
Total estimated Materials and Services Cost for completing Proposal Review Task	83.00
Overhead	
Overhead rate for federally funded contracts @ 32% x Direct Labor Cost	534.64
Total estimated Costs for completing Proposal Review Task	2,288.39
Profit	
Profit @ 8% of total estimated Cost	183.07
TOTAL PRICE for completing Proposal Review Task	2,471.46
Estimated unit price <i>if applicable</i> Total Price divided by # proposals	247.14