

Resolution #22-17

EMMET COUNTY, IOWA PROCUREMENT POLICY

PURPOSE

The purpose of this procurement policy is to ensure that sound business judgement is utilized in all procurement transactions and that supplies, equipment, construction and services are obtained efficiently and economically and in compliance with applicable federal and state law and executive orders and to ensure that all procurement transactions will be conducted in a manner that provides full and open competition.

APPLICATION

This policy applies to the procurement of all supplies, equipment, construction and services of and for Emmet County that include any federal program funding, including but not limited to, those related to the implementation and administration of the Community Development Block Grant (CDBG) award, the Pre-Hazard Mitigation Grant or the Emergency Management Planning Grant (EMPG). In regards to any such federal programs, all procurement will be done in accordance with 2 CFR; Part 200. Chapter 26 and Section 331.341 of the Iowa Code will be followed on all applicable purchases. All other appropriate sections of the Iowa Code shall also apply.

POLICY

METHODS OF PROCUREMENT

Procurement under grants shall be made by one of the following methods, as described herein: (a) small purchase procedures; (b) sealed bids (formal advertising); (c) competitive proposals; (d) noncompetitive proposals.

- A. Micro purchases are the purchase of supplies or services when the aggregate dollar amount does not exceed \$3,500. These purchases may be awarded without soliciting competitive quotes if the entity considers the price reasonable, keeping in mind that multiple purchases throughout the year must be equitably split among all qualifying vendors
- B. Small purchase procedures are relatively simple and informal procurement methods that are sound and appropriate for the procurement of services, supplies, or other property, costing in aggregate not more than \$100,000 (\$150,000 for federal programs). If small purchase procedures are used for a procurement under a grant, price or rate quotation (minimum of 2) shall be obtained from an adequate number of qualified sources.
- C. In sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction.
 1. In order for sealed bidding to be feasible, appropriate conditions must be present, including, at a minimum, the following:
 - (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 Emmet County businesses; 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.
2. When sealed bids are used for a procurement under a grant, the following requirements apply:
 - (a) A sufficient time prior to the date set for opening of bids, bids shall be solicited (publically advertised) from an adequate number of known suppliers;
 - (b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation for bids;
 - (c) All bids shall be opened publicly at the time and place stated in the invitation for bids;
 - (d) A firm-fixed-contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of Emmet County indicates that such discounts are generally taken; and
 - (e) Any or all bids may be rejected if there are sound documented business reasons in the best interest of the program.

D. Procurement by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded, as appropriate. Competitive proposals are generally used when conditions are not appropriate for the use of sealed bids. If the competitive proposals method is used for a procurement under a grant, the following requirements apply:

1. Requests for Proposals shall be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be considered to the maximum extent practical;
2. Requests for Proposals shall be solicited from an adequate number of qualified sources;
3. Emmet County shall have a written method for conducting evaluations of the proposals received and for selecting awardees;
4. Awards will be made to the responsible offeror whose proposal will be most advantageous to Emmet County, with price (other than architectural/engineering) and other factors considered. Unsuccessful offerors will be promptly notified in writing; and
5. Emmet County 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 the procurement of A/E professional services. It cannot be used to procure other types of services (e.g., administration professional services) even though A/E firms are a potential source to perform the proposed effort.
6. Evaluation Criteria for Emmet County in the Procurement of Professional Services. In accordance with 2 CFR, Part 200, the following factors will be used to evaluate the proposals or requests for qualifications when the "competitive proposals" method of procurement (used for the procurement of professional services) is utilized to select awardees.
 - a) The firm's past experience with similar projects;
 - b) Recipient's familiarity with the firm;
 - c) The firm's availability of staff/capability of staff;

- d) The firm's technical and financial resources;
 - e) The firm's geographic location;
 - f) The firm's ability to complete projects in a timely manner and within budgetary constraints;
 - g) The firm's integrity and compliance with public policy;
 - h) The firm is not on county, State of Iowa, HUD's or DOL's debarred or suspended lists; and
 - i) Cost or anticipated compensation.
- E. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source. Circumstances under which a contract may be awarded by noncompetitive proposals are limited to one or more of the following:
- 1. The item is available from only a single source;
 - 2. After solicitation of a number of sources, competition is determined inadequate;
 - 3. A public exigency or emergency exists when the urgency for the requirement will not permit a delay incident to competitive solicitation; or
 - 4. The awarding agency authorizes noncompetitive proposals. (Sole source procurement for supplies, equipment, construction, and services valued at \$25,000 or more must have prior approval of the awarding agency.)
- F. Emmet County will take affirmative steps to assure, to the greatest extent possible, that contracts are awarded to qualified small and minority firms, women's business enterprises, and labor surplus area firms whenever they are potential sources.
- These affirmatives steps must include:
- 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; and
 - f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e).

Micro Purchase Procedures

This method applies to the purchase of supplies or services when the aggregate dollar amount does not exceed \$3,500. These purchases may be awarded without soliciting competitive quotes if the entity considers the price reasonable, keeping in mind that multiple purchases throughout the year must be equitably split among all qualifying vendors.

- 1. The County Department Manager will be responsible for contacting potential contractor.

2. The County Department Manager will be responsible for documentation of records of the purchase, name of contractor, price, and the written specifications.
3. The County Department Manager will be responsible for documentation that the actual product was received.
4. The County Department Manager is required to sign documentation, confirming a review and the approval of the purchase of the goods, products, and/or services.

Informal Small Purchase Procedures

This method applies to purchases of goods, products, and/or services when the aggregate dollar amount is at least \$3,500 but less than \$150,000. Quotes from more than one (1) qualified contractor will be required.

- A. In developing written specifications, the same information needs to be provided to all contractors, you may use prices found online, in catalogs, sale flyers, newspapers, prices obtained from grocery stores, farmer's markets, etc.
- B. Each contractor will be contacted and given an opportunity to provide a price quote on the same specifications.
- C. The County Department Manager will be responsible for contacting potential vendors/contractors when price quotes are needed.
- D. The price quotes are to remain confidential information until the actual purchase has been made.
- E. Quotes will be awarded by the County Supervisors. Quotes awarded will be to the lowest and best quote based upon price, quality, service availability, and/or past performance.
- F. The County Department Manager will be responsible for documentation of records to show selection of contractor, reasons for selection, names of all vendors/contractors contacted, price quotes from each contractor, and written specifications.
- G. The County Department Manager will be responsible for documentation that the actual product specified is received.
- H. Any time an accepted item is not available, the County Department Manager will select the acceptable alternate. The County Department Manager will document the reason for accepting an alternate and keep the documentation on file.
- I. Bids will be awarded on the following criteria:
 1. Price
 2. Quality
 3. Aesthetic and functional features
 4. Efficiency
 5. After-sales service
 6. Technical assistance
 7. Date of delivery
 8. Environmental performance
 9. Lifecycle cost, etc.
- J. The County Department Manager is required to sign documentation, confirming a review and the approval of the purchase of the goods, products, and/or services.
- K. The County Department Manager is the sub-recipient's authorized purchaser.

Formal Purchase Procedures

This method applies to purchases of supplies or services when the aggregate cost amount is more than \$150,000. The formal procurement method requires the use of a Request for Proposal (RFP).

- A. The County Department Manager is the sub-recipient's authorized purchaser.
- B. An announcement of an Invitation for Bid (IFB) or a Request for Proposal (RFP) will be placed in the Emmet County News, Lakes News Shopper and on the Emergency Management website to publicize the intent of the to purchase needed items. The advertisement for bids/proposals or legal notice will be run for two (2) weeks.
- C. An advertisement is required for all purchases over the County Supervisors's simplified acquisition threshold of \$150,000. The announcement (advertisement or legal notice) will contain a general description of items to be purchased, the deadline for submission of sealed RFP's and the address where complete specifications and other procurement documents may be obtained.
- D. In a RFP, each contractor will be given an opportunity to bid on the same specifications.
- E. The developer of written specifications or descriptions for procurements will be prohibited from submitting bids or proposals for such products or services.
- F. The RFP will clearly define the purchase conditions. The following, shall be addressed in the procurement document:
 - 1. Contract period
 - 2. The County Supervisors is responsible for all contracts awarded
 - 3. Date, time, and location of bid opening
 - 4. How contractor will be informed of bid acceptance or rejection
 - 5. Delivery schedule
 - 6. Requirements which bidder must fulfill in order for bid to be evaluated
 - 7. Benefits to which the County Supervisors will be entitled if the contractor cannot or will not perform as required
 - 8. Statement assuring positive efforts will be made to involve minority and small business
 - 9. Statement regarding the return of purchase incentives by the sub-recipient
 - 10. Termination provisions and the basis for any settlement for all procurement over \$10,000.00
 - 11. Provision requiring compliance with Executive Order 11246 entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in the Department of Labor regulations required for all contracts over \$10,000.00
 - 12. Contract and/or purchase orders may be issued for firm fixed prices after formal bidding process.
 - 13. Escalation/De-escalation clause based on appropriate standard or cost index
 - 14. Specific bid protest procedures
 - 15. Provision requiring access by duly authorized representatives of the County Supervisors, State Agency, United States Department of Homeland Security, or Comptroller General to any books, documents, papers and records of the contractor which are directly pertinent to all negotiated contracts
 - 16. Method of shipment or delivery upon Contract award

17. Provision requiring contractor to maintain all required records for three (3) years after final payment and all other pending matters are closed for all negotiated contracts
 18. Provision describing the process for vendors/contractors will use to receive or pick up orders upon Contract award
 19. Provision requiring the contractor to recognize mandatory federal and state standards and polices.
 20. All contracts over \$100,000.00 will require compliance with the Clean Air Act issued under Section 306, Executive Order 11738
 21. Signed Certificate of Lobbying for all contracts over \$100,000
 22. Signed statement of non-collusion
 23. Signed Debarment/Suspension Certificate or statement included in contract or copy of Excluded Parties List System (EPLS).
 24. Provision requiring "Buy American" (7 CFR Part 210.21(d)) as outlined in Policy Memorandum SP 24-2016; specific instructions for prior approval of any and all of non-domestic product.
- G. Specifications will be prepared and provided to potential vendors/contractors desiring to submit RFP for the products or services requested. Vendors/contractors will be selected using the procedures such as:
1. Does the contractor's product meet the required specifications?
 2. Does the contractor's delivery schedule meet the Subrecipient's needs?
 3. Other criteria that each Subrecipient determines is of value to them.
- H. If any potential contractor is in doubt as to the true meaning of specifications or purchase conditions, an interpretation will be provided by Title of Person.
- I. The County Department Manager will be responsible for securing all RFPs.
- J. The County Supervisors will be responsible to ensure all subrecipient procurements are conducted in compliance with applicable Federal regulations, State General Statutes or policies of the sub recipient.
- K. The following criteria will be used in awarding contracts as a result of bids:
1. Price
 2. Quality
 3. Aesthetic and functional features
 4. Efficiency
 5. After-sales service
 6. Technical assistance
 7. Date of delivery
 8. Environmental performance
 9. Lifecycle cost, etc.
- L. In awarding a competitive negotiation (RFP), a set of award criterion in the form of a weighted evaluation sheet will be provided to each bidder in the initial bid document materials. Price alone is not the sole basis for award, but remains the primary consideration when awarding a contract. Following evaluation and negotiations a firm fixed price or cost reimbursable contract is awarded.
- M. The contracts will be awarded to the responsible bidder/proposer whose bid or proposal is responsive to the invitation and best meets the needs of the subrecipient,

price, and other factors considered. Any and all bids or proposals may be rejected in accordance with law.

- N. The County Supervisors is required to sign on the bid tabulation of competitive sealed bids or the evaluation criterion score sheet of competitive proposals signifying a review and approval of the selections.
- O. The County Department Manager will review the procurement system to check ensure compliance with applicable laws.
- P. The County Department Manager will be responsible for documentation that the actual product specified is received.
- Q. Any time an accepted item is not available, the Title of Person will select the acceptable alternate. The contractor must inform Title of Person time/by when a product is not available.
- R. The County Supervisors must comply with the Buy American Provision.
- S. Full documentation as to the reason an accepted item was unavailable, and to the procedure used in determining acceptable alternates, will be available for audit and review. The person responsible for this documentation is Title of Person.
- T. The County Department Manager will be responsible for maintaining all documentation of the procurement process.

Sole Source Procedure

If items are available only from a single source when the award of a contract is not feasible under simplified acquisition purchase, a RFP non-competitive negotiation procedure will be used:

- A. Written Specifications will be prepared and provided to the contractor.
- B. The County Department Manager will be responsible for the documentation of records to fully explain the decision to use the non-competitive negotiation. The records will be available for audit and review.
- C. The County Department Manager will be responsible for documentation that the actual product or service specified was received.
- D. The County Department Manager will be responsible for reviewing the procedures to be certain all requirements for using single source or non-competitive negotiation are met.
- E. The record of non-competitive purchases shall include, at a minimum, the following:
 - 1. Item name
 - 2. Dollar amount
 - 3. Contractor, and
 - 4. Reason for non-competitive procurement
- F. If it is necessary to make an emergency procurement to continue service, the purchase shall be made, and a log of all such purchases shall be maintained by the County Department Manager. The following emergency procedures shall be followed. All emergency procurements shall be approved by the County Supervisors. At a minimum, the following emergency procurement procedures shall be documented:
 - 1. Item name
 - 2. Dollar amount
 - 3. Contractor, and
 - 4. Reason for emergency

- G. The subrecipient and contractor shall agree to retain all books, records and other documents relative to the contract agreement for three (3) years after closeout of the grant. The subrecipient, its authorized agents, HSEMD, and/or auditors shall have full access to and the right to examine all materials after the closeout and the performance period ends.
- H. The subrecipient shall agree to retain all books, records and other documents relative to the award of the contract agreement for three (3) years after final payment. Specifically, they shall maintain, at a minimum, the following documents:
1. Written rationale for the method of procurement;
 2. A copy of the RFP;
 3. The selection of contract type;
 4. The bidding and negotiation history and working papers;
 5. The basis for contractor selection;
 6. Approval from the State agency to support a lack of competition when competitive bids or offers are not obtained;
 7. The basis for award cost or price;
 8. The terms and conditions of the contract;
 9. Any changes to the contract and negotiation history;
 10. Billing and payment records;
 11. A history of any contractor claims; and
 12. A history of any contractor breaches.
- I. The subrecipient must maintain a written code of standards of conduct (2 CFR 200.318 (c)(1)) that includes procedures that governs the performance of its officers, employees, or agents who are engaged in the award and administration of contracts.
- J. The following conduct will be expected of all subrecipient persons who are engaged in the awarding and administration of contracts.
1. No employee, officer or agent of the subrecipient shall participate in the selection or in the award or administration of a contract supported by program funds if a conflict of interest, real or apparent, would be involved.
 2. Conflicts of interest arise when one of the following has a financial or other interest in the firm selected for the award:
 - a) The employee, officer or agent;
 - b) Any member of the immediate family;
 - c) His or her partner;
 - d) An organization which employs or is about to employ one of the above;
 - e) A less-than-arms-length transaction. This is one party's ability to control or influence the other party to the transaction. A less-than-arms-length transaction occurs:
 1. When a transaction is conducted between related parties, meaning that the integrity of the transaction could be compromised;
 2. When one party to the transaction is able to control or influence the actions of the other party. Examples could include:
 - a. Hiring the subrecipient's brother as a trainer.
 - b. Purchasing goods or services from a business owned by an officer, employee, or relative of the subrecipient's entity.

- c. Agreement for computer maintenance between a business and person who are related to the subrecipient's employees or board members.
3. The sub-recipient's employees, officers or agents must not solicit or potentially accept gifts, travel packages, and other incentives from prospective vendors/contractors
4. The subrecipient must set standards when financial interest is not substantial, or the gift is an unsolicited item of nominal value and may be acceptable.
5. Penalties for violation of the code of conduct of set forth within this plan will be at the discretion of the County Supervisors.

CONTRACT PRICING

- A. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.
- B. Emmet County shall perform some form of cost/price analysis for every procurement action, including modifications, amendments or change orders. Emmet County shall make an independent estimate prior to receiving a bid or proposal.
- C. Emmet County shall 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. In determining a fair and reasonable profit, Emmet County must consider the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance and the industry profit rates in the surrounding geographical area.

PROCUREMENT RECORDS

Emmet County shall maintain records sufficient to detail the significant history of a procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

CODE OF CONDUCT

The purpose of this Code of Conduct is to ensure the efficient, fair, and professional administration of federal grant funds in compliance with 2 CFR; Part 200.318 and other applicable federal and state standards, regulations, and laws.

A. APPLICATION

This Code of Conduct applies to all officers, employees, or agents of Emmet County engaged in the award or administration of contracts supported by federal grant funds.

B. REQUIREMENTS

No officer, employee, or agent of the County Supervisors shall participate in the selection, award, or administration of a contract supported by federal grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer, or agent;
2. Any member of his/her immediate family;
3. His/her partner; or

4. 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.

The County Supervisors officers, employees, or agents shall neither solicit nor accept gratuities, favor, or anything of monetary value from contractors, potential contractors, or subcontractors.


C. REMEDIES

To the extent permitted by federal, state, or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against Emmet County's officer, employees, or agents, or the contractors, potential contractors, subcontractors, or their agents, including termination.

AWARDED CONTRACTS

- A. Emmet County will not award a contract to a party listed as debarred, suspended, or otherwise excluded in the System for Award Management (SAM).
- B. Any contracts awarded shall comply with 2 CFR 200.326 and Appendix II to Part 200.

Passed and adopted this 20th day of September 2022.



Jeff Quastad
Chairman, Board of Supervisors

Attest:



Amy M. Sathoff
Emmet County Auditor