

CITY OF SOMERSET  
COMMONWEALTH OF KENTUCKY

Resolution No. 04-02

**CDBG/HOME PROCUREMENT STANDARDS**

All procurements made by the City of Somerset that involve the expenditure of CDBG and HOME Funds will be made in accordance with the following procurement standards.

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

Purchases will be reviewed by the City Clerk to prevent duplication and to ensure that costs are reasonable.

**I. METHODS FOR PROCUREMENT**

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

**A. SMALL PURCHASES**

Purchases of supplies, equipment and services which, in aggregate, cost between \$750 and \$20,000 will require written estimates, however, no legal advertisement is required. The city will solicit written responses from at least three vendors, and if no such responses are available, a statement explaining the procurement will be prepared and filed.

Purchases which cost between \$100 and \$750 require three over-the-telephone quotations of rate, price, etc. A memorandum will be prepared setting forth the date the calls were made, parties contacted and prices obtained. For purchases of less than \$100, efforts will be made to get the lowest and best price, but written records of such efforts are not necessary.

**B. COMPETITIVE SEALED BIDS**

Bidding will be employed when detailed specifications for the goods or services to be procured can be prepared, and the primary basis for award is cost. When the cost of a contract, lease or other agreement for materials, supplies, equipment or contractual

services other than those personal or professional, exceeds \$20,000, an Invitation for Bids (IFB) notice will generally be prepared. This notice will be published at least once in at least one official newspaper of general circulation within the community. This newspaper notice will appear not less than seven (7) days and not more than twenty-one (21) days before the due date for bid proposals. The city may also solicit sealed bids from responsible prospective suppliers by sending them a copy of such notice.

The IFB will include a general description of the goods or services to be procured, the bid deposit and bond performance required (if applicable), the location where bid forms and specifications may be secured, the time and place for opening bids, and whether the bid award will be made on the basis of the lowest bid price or the lowest evaluated price. If the lowest evaluated price is used, the measurable criteria to be utilized must be stated in the IFB. The newspaper notice must also contain language which calls to the attention of bidders all applicable requirements (for example: 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 IFB. The bids will be tabulated by the city at the time of bid opening. The results of the tabulation and the bid documents will be examined for accuracy and completeness by the review committee which will make recommendations to the city council. In addition, the committee determines that all firms are responsive and responsible. The Somerset City Council 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 of Somerset may cancel an IFB or reject all bids if it is determined, in writing, that it 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.

### ***C. COMPETITIVE NEGOTIATIONS***

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 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. The RFP will always include cost as a selection factor.
2. Award must be made to the offerer whose proposal is determined in writing by a review committee to be the most advantageous to the city. Evaluations must be based on the factors set forth in the RFP and a written evaluation of each response prepared. The review committee may contact the firms regarding their proposals for the purpose of clarification and record in writing the nature of the clarification. If it is determined that no acceptable proposal has been submitted, all proposals may be rejected. New proposals may be solicited on the same or revised terms or the procurement may be abandoned.

For the procurement of certain professional services, an alternative to RFPs may be used. The city may publish a Request for Qualifications (RFQ). 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 at least three 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. NONCOMPETITIVE NEGOTIATIONS***

Noncompetitive negotiations may be used for procurements in excess of \$20,000 when bidding or competitive negotiations are not feasible. The City of Somerset may purchase goods and services through noncompetitive negotiations when it is determined, in writing by the city, that competitive negotiation or bidding is not feasible and that:

1. An emergency exists that will cause public harm as a result of the delay caused by following competitive purchasing procedures, or
2. The product or service can be obtained only from one source, or
3. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, or
4. Only one satisfactory proposal is received through RFP or RFQ, or
5. The state has authorized the particular type of noncompetitive negotiation (for example -- the procurement of services by an Area Development District).

Procurement by noncompetitive negotiation requires that impartiality towards all suppliers be strictly observed. The Department for Local Government and/or the Kentucky Housing Corporation must approve all procurement by noncompetitive negotiation when only one supplier is involved or only one bid or response to an RFP/RFQ is received.

## **II. CONTRACTS**

Generally, all procurements in excess of \$750 will be memorialized and supported by a written contract. Where it is not feasible or impractical to prepare a contract, a written finding to this effect will be prepared, and some form of documentation regarding the transaction will be prepared. The contractual provisions required by the "Common Rule," 24 CFR Part 85 (Part 84 for Nonprofits) will be included in all contracts. Cost plus a percentage of cost contract pricing is not allowed.

## **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 filed separately and maintained. Where it is not feasible 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 ensure 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, WOMEN-OWNED AND SMALL BUSINESSES**

Efforts will be made and documented to solicit participation of locally-owned, minority-owned, women-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, women-owned and minority-owned small 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 take part or have an interest in the award of any procurement transaction if a conflict of interest, real or apparent, exists. A conflict of interest occurs when the official, employee or designated agent of the city, partners of such individuals, immediate family member, or an organization which employs or intends to employ any of the above has a financial or other interest in any of the competing firms.

### B. ACCEPTANCE OF GRATUITIES

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

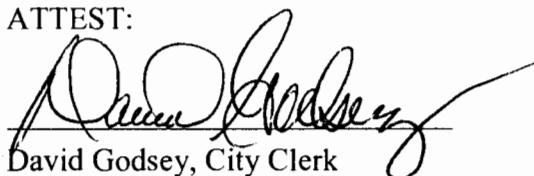
Any elected official, employee or designated agent of the city who knowingly and deliberately violates the provisions of this code will be open to civil suit. Furthermore, such a violation of these procurement standards is grounds for dismissal by the city.

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 BY THE CITY COUNCIL OF THE CITY OF SOMERSET, KENTUCKY  
this 26<sup>th</sup> day of January, 2004.

  
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J.P. Wiles, Mayor

ATTEST:

  
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David Godsey, City Clerk