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FINANCE & RECORDS

To: Mayor and City Council

From: Nancy A. Lueck, Finance Director

Date: November 20, 2019

Re: Request to Approve Amendment to City of Muscatine Purchasing Manual/Policies for Procurements Under Federal Grants

Introduction and Background:

The City's current Purchasing Manual includes numerous purchasing policies as well as instructions for City departments to follow when procuring goods and services for the City. For purchases funded from federal grant funds, however, there are often additional purchasing/contracting requirements that the City is required to follow. The City follows those requirements for the respective grants, although they currently are not specifically included in the Purchasing Manual. These requirements may also vary with each federal grants.

City staff has been working with FEMA and Iowa Homeland Security staff for the 2019 flood damage assessment and they are requiring that certain provisions of the federal procurement standards be included in each government's procurement policies and that those policies reference the specific sections of Title 2 of the Code of Federal Regulations. The attached amendment to the City's purchasing policies for Procurement Under Federal Grants will satisfy the requirements of the federal grant programs.

Recommendation:

Please include the attached amendment to the City's purchasing policies on the agenda for the December 5, 2019 City Council meeting. Please contact me if you have any questions or need additional information.

**CITY OF MUSCATINE
PURCHASING MANUAL/POLICIES
AMENDMENT FOR PROCUREMENT UNDER FEDERAL GRANTS
12-6-19**

PROCUREMENT UNDER FEDERAL GRANTS

For procurements using federal grant funds, the City will follow the applicable requirements in Title 2, Part 200 of the Code of Federal Regulations. Sections of this Code are referenced in the specific provisions listed below.

For federally funded procurement actions, where federal requirements conflict with local or state requirements, the federal requirement, or most restrictive requirement will be followed.

Procurement For Professional Services Under Federal Grants

Procurement For Professional Services Under Grants shall be made by one of the following methods: (a) micro-purchase procedures; (b) small purchase procedures; (c) sealed bids (formal advertising); (d) competitive proposals; (e) noncompetitive proposals.

A. Micro-Purchase Procedures 200.320(a)

- i. The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold - \$10,000 (200.67)
- ii. To the extent practicable, must distribute micro-purchases equitably among qualified suppliers
- iii. May be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable

B. Small Purchase Procedures 200.320(b)

- i. Are those relatively simple and informal procurement methods for securing services, supplies, or other property that does not cost more than the simplified acquisition threshold - \$250,000 (200.88)
- ii. Price or rate quotations are to be obtained from an "adequate number of qualified sources"

C. Sealed Bidding (formal advertising) 200.320(c)

- i. Lowest priced, responsive, responsible, bidder WINS
- ii. The preferred method for construction when sealed bidding is "feasible", which is when certain conditions are present
- iii. Bids must be solicited from an "adequate number of known suppliers", providing them sufficient response time before date for the opening of bids
- iv. Bids will be opened at the time and place prescribed in the invitation for bids
- v. Must publicly advertise the invitation for bids
- vi. Bids must be opened publicly
- vii. Other procedural requirements found at 200.320(c)(2)

D. Competitive Proposals 200.320(d)

- i. Used when conditions are not appropriate for the use of sealed bids
- ii. The appropriate method when more than one source is expected to submit an offer and either a fixed-price or cost-reimbursement type contract is awarded
- iii. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered
- iv. Requests for proposals must be publicized and identify all evaluation factors and their relative importance

- v. Proposals must be solicited from an adequate number of qualified sources
- vi. Must have written method for conducting technical evaluations of the proposals received and for selection of the contract

Noncompetitive Proposals 200.320(f)

- i. Procurement through solicitation of a proposal from only one source may be used only when one or more of the following circumstances apply:
 - a. **One Source:** the item is available only from a single source
 - b. **Exigency/Emergency:** an exigency or emergency will not permit a delay resulting from competitive solicitation
 - c. **Awarding Agency Approval:** the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity
 - d. **Inadequate Competition:** after the solicitation of a number of sources, competition is determined inadequate

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (200.321)

- A. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- B. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- 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).

AWARDED CONTRACTS

- A. The City will not award a contract to a party listed as debarred, suspended, or otherwise excluded in the System for Award Management (SAM). www.sam.gov (200.213)
- B. Contracts awarded shall contain the applicable contract provisions described in 2 CFR 200.326 and Appendix II to Part 200.
- C. The City will maintain written standards of conduct covering conflicts of interest and must provide for disciplinary action to be applied for violations of such standards as defined in 2 CFR 200.318 (c) (1). No officer, employee, or agent of the City 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 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. The City officers, employees, or agents shall neither solicit nor accept gratuities, favors, or

anything of monetary value from contractors, potential contractors, or subcontractors. To the extent permitted by federal, state, or local law or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City's officers, employees, or agents.

PROCUREMENT RECORDS

The City 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.

(200.324)

(a) The City must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

(b) The City must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The City's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The City is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this Part.

(1) The City may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The City may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the City that it is complying with these standards. The City must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.