

**CITY OF MARATHON, FLORIDA
RESOLUTION 2012-06**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ADOPTING PROCUREMENT POLICIES AND PROCEDURES TO BE USED SPECIFICALLY FOR THE PROCUREMENT OF GOODS AND SERVICES FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ACTIVITIES; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon's ("City") existing procurement policies and procedures lack several items that are required by the Community Development Block Grant ("CDBG") agreements the City has entered into; and

WHEREAS, the City wishes to adopt separate procurement policies and procedures specifically for the procurement of goods and services for CDBG activities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

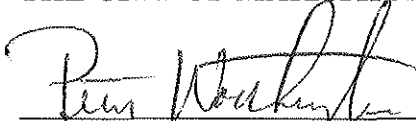
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The CDBG procurement policies and procedures attached hereto as "Exhibit A," are hereby approved.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10th DAY OF JANUARY, 2012.

THE CITY OF MARATHON, FLORIDA



Pete Worthington, Mayor

AYES: Cinque, Keating, Ramsay, Snead, Worthington
NOES: None
ABSENT: None
ABSTAIN: None

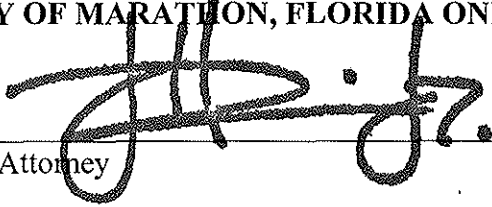
ATTEST:

Diane Clavier

Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE
CITY OF MARATHON, FLORIDA ONLY:**



City Attorney

**CITY OF MARATHON
PROCUREMENT POLICIES AND PROCEDURES
FOR
COMMUNITY DEVELOPMENT BLOCK GRANT
PROGRAMS AND PROJECTS**

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I. GENERAL POLICY

A. APPLICABILITY

These procurement policies establish procedures and guidelines that shall be used for the purchase or procurement of personal property, supplies, equipment, and services funded by the Community Development Block Grant (CDBG) program. All procurement shall be accomplished in compliance with applicable state and federal law. The purpose of these procedures is to facilitate the determination of the most efficient and economical means of securing commodities and services without sacrificing necessary control and good purchasing practice.

B. PROCUREMENT LAW AND REGULATIONS

Laws relative to the procurement process, in general, may be found in Chapter 287, Fla. Statutes. The provisions of these procurement procedures shall not be construed to conflict with or supersede the requirements of S. 287.055, Fla. Statutes, 24 Code of Federal Regulations (CFR) Section 85.36, or any other applicable state or federal laws or regulations. In regard to procurement of commodities or services in connection with Community Development Block Grants (CDBG), the U.S. Department of Housing and Urban Development (HUD) grant administration regulations relating to procurement are promulgated in Handbook 1300.17. This Handbook reprints the Office of Management and Budget (OMB) Circular A-102, Attachment O, which pertains to procurement standards and is hereby incorporated by reference. Future state

or federal regulations applicable to procurement under the CDBG Program shall supersede and/or supplement this policy.

II. PROCUREMENT STANDARDS

A. GENERAL STANDARDS

Except as otherwise provided by law, procurement awards shall be made only on the basis of requirements and evaluation factors that are directly related to the price, quantity, or quality of the commodities or services or the ability of the prospective supplier or contractor to perform under the agreement.

Procurement procedures prohibit the dividing of the procurement of a good or service into a number of smaller groups in order to avoid the more stringent requirements of a higher dollar category (refer to S. 287.057(4), Fla. Statutes (1989)). However, this provision is not to conflict with the provision of 24 C.F.R. S. 85.36(e) that the subgrantee take all necessary affirmative steps to assure that minority firms, women's business enterprises and labor surplus area firms are offered the opportunity to participate to the maximum practicable extent.

B. COMPETITION

All procurement transactions will be conducted in a manner providing full and open competition consistent with standards of Section 85.36 of the C.F.R. Some of the situations considered to be restrictive of competition include but are not limited to:

1. Placing unreasonable requirements on firms in order for them to qualify to do business,

2. Requiring unnecessary experience and excessive bonding,
3. Noncompetitive pricing practices between firms or between affiliated companies,
4. Noncompetitive awards to consultants that are on retainer contracts,
5. Organizational conflicts of interest,
6. Specifying only a "brand name" product instead of allowing "an equal" product to be offered, and
7. Any arbitrary action in the procurement process.

The inability to obtain more than one bid, price quote or proposal shall not prohibit the approval of a purchase if other prospective vendors or contractors have been given adequate notice of the procurement and an opportunity to participate, and have declined to submit bids, proposals or price quotes. The declination to submit need not be in writing.

III. PROCUREMENT ADMINISTRATION

A. EFFICIENCY REVIEW

The City Manager, or his designee shall review the proposed procurement to avoid unnecessary or duplicative items. In order to obtain a more economical, efficient or effective purchase, consideration shall be given to:

1. Breaking out or consolidating purchases,
2. Lease versus purchase alternatives,
3. Interlocal agreements for purchases or use of common goods,

4. Use of federal or state surplus property,
5. Value engineering reviews, and
6. Use of state or federal contracts for materials and/or services.

B. PERFORMANCE REVIEW

Contracts shall specify a contract manager, appointed by the local governing body, to ensure that the contractor performs in accordance with the terms, conditions and specifications of their contract or purchase order.

C. RECORDS

Appropriate arrangements shall be made for the generation and maintenance of all files, records, and documentation necessary to evidence the compliance with all requirements as delineated in this document. All procurement shall comply with good purchasing practices and with applicable local, state and federal regulations, in a manner consistent with this document. A complete set of records shall be maintained by the entity responsible for the procurement for a minimum of 6 years. See Section I.B. for applicable laws and regulations.

D. WRITTEN AGREEMENTS

Any procurement of commodities or services costing \$600 or more shall be evidenced by a written solicitation embodying all provisions and conditions of the procurement. This requirement for written documentation may be met through preparation of a letter on municipality or vendor letterhead, signed by the vendor and appropriate elected and/or appointed official, stating such

conditions and terms as price, number of units of purchase (e.g., ea., cs., bx., etc.) or product, delivery date, or when service is to begin, point of delivery, specifications, etc. Any price quotes, warranties, guaranties, certifications or contracts shall be attached and filed.

E. AUTHORIZATIONS

Purchase orders or contracts shall be issued for all purchases and must be signed by either the Chief Elected Official or the department head approving the purchase. The local governing body must authorize all purchases in excess of \$25,000.

IV. PROCUREMENT CLASSIFICATIONS

The following classifications are established:

PROCUREMENT CLASS	PROCUREMENT RANGE	DESCRIPTION	PROCUREMENT METHOD
1.	\$1- 2,499.99	simple procurement	price checks/ simple purchase
2.	\$2,500-25,000	intermediate procurement	informal competition, written agreement
3.	\$ Over 25,000	formal procurement	formal competition (bids or proposals)/ contract

A. SIMPLE PROCUREMENT (LESS THAN \$2,500.00)

Procurement is accomplished through simple purchase. Simple procurement procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of supplies or other property, or services. Items or services under \$250 do not require written price

quotes or documented price checks. Appropriate notation of oral price quotes should be made for costs ranging from \$250-\$2,499.99.

A reasonable and adequate number of price checks or quotes should be made by phone, personal inspection, and discussions with vendors, etc., to ensure the highest quality product or service is obtained for the least cost to the procuring entity.

B. INTERMEDIATE PROCUREMENT (\$2,500-\$25,000)

Procurement is accomplished by obtaining three written price quotes, when possible, or through informal negotiation if the item or service is expected to cost less than \$25,000. If the actual cost exceeds \$25,000, then the procurement must go to formal procurement, as outlined in Section C below. Files shall contain documentation of competition. No advertising is required but all procurement shall be evidenced by a written agreement embodying all provisions and conditions of the procurement. This requirement for written agreement may be met through preparation of a letter on municipality or vendor letterhead, signed by the vendor or appropriate elected and/or appointed official or representative, stating such conditions and terms as price, number of units or purchase (e.g., ea., cs., bx., etc.) or product, delivery date or when service is to begin, point of delivery, specifications, etc. Any price quotes warranties, guaranties, certifications or contracts shall be attached and filed.

C. FORMAL PROCUREMENT (REQUIRED OVER \$25,000)

Formal Procurement includes the acquisition of commodities or securing services that are expected to cost \$25,000, and requires formal advertising and

submission of competitive sealed bids, sealed proposals, or competitive negotiation.

Sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsive bidder who conforms to or exceeds all material requirements, terms and conditions of the invitation for bids, and presents the lowest reasonable price that meets requirements and needs.

Sealed Bidding shall be used unless the municipality Chief Elected Official or Chief Financial Officer certifies in writing that sealed bidding is not practicable or advantageous, in which case procurement shall be based on sealed proposals, or on competitive negotiation when required by Florida Statutes.

The technique of competitive negotiation is normally conducted with more than one source submitting a proposal for services with either a fixed-price or cost-reimbursement type contract awarded. It is generally used when conditions are not appropriate for the use of sealed bids or proposals indicating fees. Florida Statutes shall determine the manner in which such negotiations are performed and the types of contractual services, which are to be procured in this manner.

Noncompetitive negotiation shall be used when other types of procurement are infeasible (see Section VI).

V. SOLICITATION AND AWARD

A. INVITATIONS FOR BIDS (ITB)

1. The invitation to bid is used when the procuring entity is capable of defining the scope of work for which a contractual service is required or when the procuring entity is capable of establishing precise specifications defining the actual commodity or group of commodities required.
2. Invitation to bid shall be a written solicitation for sealed competitive bids with the title, date, and hour of the public bid opening designated and which specifically defines the commodity, group of commodities, or services for which bids are sought. It includes instructions describing all conditions for bidding and shall be distributed (or available) to all prospective bidders simultaneously.
3. Sealed bids are required to be received at a specified place not later than a specified time and date. Failure to comply with any instructions pertinent to the delivery of such bids may result in their being rejected.

B. REQUEST FOR PROPOSALS (RFP)

A request for proposals (RFP) shall be a written solicitation for sealed proposals with the title, date, and hour of the public opening designated. The request for proposals is used when (a) the procuring entity is incapable of specifically defining the scope of work for which the commodity, group of commodities, or contractual service is required and when it requests that a qualified offeror propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document, or (b) when

quality of performance is to be the primary factor for selection. With respect to competitive negotiations, the offeror shall negotiate a contract with the most qualified firm for professional services at compensation which the agency determines is fair, competitive, and reasonable. In making such determination, the agency shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity and shall refer to the provisions of S. 287.055, Fla. Statutes (1989).

A request for proposals includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Requests for proposals shall state the relative importance of price and any other evaluation criteria. Cost analysis, including a review of profit as a separate element, will be performed when price was not included as an evaluation factor in the RFP, or when only one proposal was received.

C. ADVERTISING

The advertisement must be written in a clear, concise manner and in a way which would invite competitive procurement. The advertisement shall contain at least the following minimum information:

1. Time, date and location for receiving and opening bids or proposals (the date shall not be less than five (5) days after the final advertisement is published),
2. General description of the commodity or item being requested,

3. Where and how detailed specifications and bid forms (if applicable) may be obtained,

The request shall be advertised in a newspaper circulated locally. If there are known local vendors of the desired product or service, only a local newspaper is required. If vendors are not local, a regional newspaper shall be utilized. The advertisements shall, as a minimum, allow one week for response, with two weeks preferable. Those local newspapers targeting a minority audience and associations of women- or minority-based populations will be contacted (if they are known) for distribution of the request.

Sealed bids or sealed proposals will be received at any time during normal working hours prior to the time and date as specified. Each proposal shall be annotated with the time and date received. The bids or proposals shall be placed in the applicable file and publicly opened and read at the time designated for the bid opening.

D. EVALUATION

The contract shall be awarded to the lowest responsible and responsive bidder or proposer whose bid or proposal most completely meets the requirements and criteria set forth in the invitation for bids or request for proposals.

The term "responsible bidder or proposer" refers to the capability of a vendor or contractor to perform fully all aspects of the contract. Financial capability, integrity, and reliability of the bidder or proposer, all of which tend to

ensure good faith performance, shall be a criteria in evaluation of responsibility.

The term "responsive bidder or proposer" means a bidder who has submitted a bid or proposal, which materially conforms to all provisions of the specifications and the invitation to bid or request for proposal.

Evaluation criteria and requirements for submittals set forth in the ITB or RFP shall be used to determine whether a bidder or proposer is responsive and/or responsible. A technical review shall be performed on submittals in the following manner. A subjective ranking of bids or proposals by a majority of the elected officials, or by persons selected by the body to act on their behalf, shall be utilized as a method of selection (see Appendix A). Award shall be made to the responsible individual firm whose proposal is considered most advantageous to the program, with price and other factors considered.

In procuring services for grant administration, evaluations of vendors or service suppliers shall include a proven track record and sound reputation; adequate financial strength; high ethical standards; and a record of adhering to specifications, of maintaining shipping or service delivery schedules, and of giving a full measure of service. Consideration may also include the prospective contractor's records of past performance under CDBG grants. This factor is not meant to exclude consideration of new firms, but rather, to include past performance and experience as a potential criterion.

All bidders will be notified that they were or were not selected for award of contract as soon as possible following the evaluation and decision process.

E. MULTIPLE SERVICE AWARDS

Vendors or service suppliers will be considered for multiple sources of supply or multiple services when it can be demonstrated that such vendors or services suppliers either are sole sources of the services or are the responsive proposer whose proposal is determined in writing as a result of a competitive process to be the most advantageous to local government.

For each service listed in S. 290.047(5), Fla. Statutes (1989), when included in a multiple service contract, written determination of the need for a multiple service contract and the supporting documentation shall be maintained on file with the sub-grantee (See Appendix B).

Any or all bids or proposals may be rejected where there are sound documented business reasons, which are in the best interest of the procurer. Records of all proceedings for selection and/or rejection shall be maintained.

VI. EXCEPTIONS

The non-competitive negotiation method of procurement is solicitation of a proposal from only one source; or after solicitation of a number of sources (documented), competition is determined inadequate (Refer to 24 C.F.R.

S. 85.36 (d)(4). It may be used only:

1. When procurement or award of contract is infeasible under simple or intermediate procurement or thorough formal (sealed bid) competition; and
2. Under one of the following circumstances:
 - a. The item is available only from a single source; or

- b. Public exigency or emergency exists such that the urgency for the requirement will not permit a delay incident to competitive bidding; or
- c. In the case where grant funds are being used, the federal or state (whichever is more stringent) grantor agency authorizes non-competitive negotiations; or
- d. After solicitation of a number of sources, competition is determined inadequate (See Appendix B); or
- e. The contract item is available under a State of Florida Contract.

Emergency purchases of up to \$2,000 shall be authorized by the Chief Elected Official or designated alternate when, based on his/her decision, the delay incurred by following the normal procurement requirements would be detrimental to the best interests of the community.

VII. AFFIRMATIVE ACTION/EQUAL OPPORTUNITY

The City is committed to eliminating discrimination based upon race, color, sex, national origin, familial status, age, or physical handicap. In grant programs, the City will comply with requirements of Section 3 (Use of the project area), Equal Employment Opportunity on Federally Assisted Construction Contracts, and Executive Order 11625 (Minority Business). Notice of the policy will be placed in plain sight on the job location for the benefits of interested parties and all contractors and subcontractors so notified. Equal Opportunity posters will be displayed as required.

An Equal Opportunity Officer, usually the Clerk, will be appointed. Duties will include coordinating local efforts in recruiting employees and soliciting bids, resolving complaints, and submitting required reports.

The procuring entity will encourage the employment of local residents, especially those who have low-to-moderate income and those who are female and/or of a minority racial/ethnic classification. This will be accomplished through the following methods for employment and hiring:

1. All employment opportunities will be publicly advertised, including the "equal opportunity employer" designation unless an internal promotion or upward mobility situation exists.
2. When appropriate, notification of employment opportunities will be issued to organizations such as the local schools, employment centers, minority organizations and social service agencies who may refer qualified applicants.
3. Recruitment practices, including those described in paragraphs one and two, will be conducted in such a way as to include qualified minorities and females in all levels of responsibility and departments, in percentage to the general population and/or available work force, to the maximum practical extent.
4. When applicants are equally qualified in all other areas, preference will be given to hiring minorities and females in furtherance of the goals expressed above.

In accordance with the 1989 State Fair Housing Act (Fla. Statutes S. 760.20), the municipality and any contractors hired with CDBG funds shall not discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, national origin, sex, handicap, familial status, age, or religion. (See Section X on Protests for complaint procedures).

VIII. CONTRACTS

All contracts procured with state or federal funds shall contain applicable provisions as required by Fla. Statutes (specifically S.287.058), Florida administrative rule, federal law, regulation or executive order. Provisions shall include, but not be limited to, such requirements as bonding, equal employment opportunity, contract termination, record retention, public access to records, reporting, remedies for breach, conflict of interest, labor standards compliance, pre- and post-audit requirements, and compliance with environmental laws.

IX. CODE OF CONDUCT

No employee, officer or agent of the procuring entity shall participate in the selection, award or procurement of an application, administration, engineering or construction contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when (a) the employee, officer or agent, (b) any member of his immediate family, (c) his or her partner, or (d) an organization which employs, or is about to employ, any of the above, will receive a financial or other direct benefit of CDBG funds from the contract award. In any

of these cases, the employee, officer or agent will abstain from voting on the award.

Officers, employees and agents of the procuring entity will neither solicit gratuities, favor or anything of monetary value, nor accept any unsolicited gratuity, favor or gift valued above \$25, from contractors or potential contractors, or parties to subagreements.

Violation of this policy shall be subject to penalties, sanctions or other disciplinary action as permitted by state or local law. Upon conviction in a State Court of competent authority, a violator may be found guilty of a first-degree misdemeanor, punishable as provided in Fla. Statutes S.775.082 or S.775.083.

X. PROTESTS

Objection to procurement shall be issued, in writing, to the City Manager within five (5) working days of purchase or selection to purchase under contract. A response shall be issued to the objecting party within five (5) working days. An objection shall be considered valid only if it discloses a violation of this policy.

For employment discrimination, contact:

The U.S. Equal Employment Opportunity Commission
2401 E. Street, N.W.
Washington, D.C., 20507
1-800-872-3362

For housing discrimination, contact:

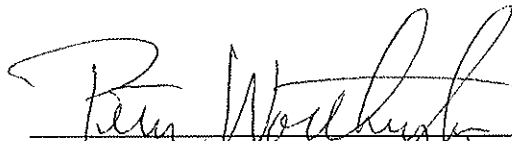
Florida Commission on Human Relations

325 John Knox Road, Bldg. F, Suite 240

Tallahassee, Florida 32303

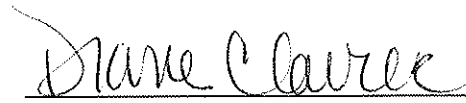
1-800-342-8170

This policy has been approved and adopted this 10 day of Jan, 2012



Mayor Pete Worthington

Attest:



Town Clerk
City