



Vicksburg
Mississippi

CITY OF VICKSBURG

Federal\State Grants Management
Procurement and Professional Services
Policies and Procedures

BOARD OF MAYOR AND ALDERMEN:
Mayor Willis Thompson
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CITY OF VICKSBURG
Federal/State Grants Management Procurement and
Professional Services Policies and Procedures

Purpose:

The Policies and Procedures herein contain the internal controls and grant management standards used by the City of Vicksburg to ensure that all federal/state requirements are adhered to where federal funds are involved in a project for administration of its grant programs.

Procurement Policy:

The City of Vicksburg and its subgrantees will adhere to Federal procurement laws contained in 2 CFR Part 200, unless and except where State laws contained in 24 CFR Part 85 supersede Federal requirements. Procurement is a multi-step process for obtaining goods, products, and/or services at the best possible price.

All procurement transactions shall be conducted in a manner providing free and open competition. Free and open competition means that suppliers are playing on a level playing field and thereby have the same opportunities to compete. Said process shall be free of unreasonable restrictions including, but not limited to the following:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive contracts to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- Any arbitrary action in the procurement process.

The City will conduct procurements in a manner that prohibits the use of statutory or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

Bidders:

Only bidders who are eligible and in good standing with federal grant programs, free of conflict of interest, and have not been involved in the preparation or submittal of documents for the contract may participate in the bidding process. *Contractors who develop or prepare specifications, requirements or statements of work, or who prepare invitations to bid or request proposals are excluded from competing in a contract for procurement for that specific project or award.* The City's designated representative will check federal websites to determine whether a bidder has been suspended or disbarred from participating in the federal grants program.

Factors that are considered when selecting a contractor are:

- Contractor integrity
- Compliance with public policy
- Record of past performance
- Financial and technical resources
- Responsive bid
- Excluded Parties Listing

PROCUREMENT SERVICES\PROCEDURES:

Written Procedures:

For procurement transactions, the City of Vicksburg will do the following:

- (1) Clearly and accurately describe the technical requirements for the material, product, or service to be procured.
- (2) Such description shall not unduly restrict competition. The description shall set forth those minimum essential characteristics and standards to which the material, product or service shall conform to if it is to satisfy its intended purpose.
- (3) Maintain records to detail the significant history of procurement. Records will include but are not limited to rationale for the method of procurement, selection of contract type, contract selection or rejection, and the basis for the contract price.
- (4) Maintain a contract administration system to ensure that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders.
- (5) Provide a review of proposed procurements to avoid unnecessary or duplicative items.
- (6) To foster greater economy and efficiency, to enter into intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of shared goods and services.

- (7) Encourage the use of Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
- (8) Use value engineering clauses in its contracts for construction projects of sufficient size for opportunity for cost reductions.
- (9) Award contracts to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

Professional Services:

If the City intends to utilize Professional Services for application preparation, preliminary cost estimates, project management, Architectural/Engineering (“A\E”) and/or Construction Administration services it will advertise for each professional service prior to submission of an application for Federal funding and/or upon grant award in accordance with the following competitive proposals process as set forth in this policy *if needed and on a case by case basis*. The Professional will ensure that goods and supplies meet the specifications set forth in the contract.

Procedures for Procurement of Professional Services:

The City will adhere to the following procedures for procurement of Professional Services:

- (A) The Project Manager will form a Consultant Selection Committee composed of employees of the City of Vicksburg to oversee the Selection Process for Professional Services for each of its various federally funded projects.
- (B) The City of Vicksburg will seek requests for qualifications for Professional Services for each project that is federally funded.
 - 1. The City will solicit Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Disadvantaged Business Enterprise (DBE) professionals.
 - 2. The Request for Qualifications (RFQ) for Professional Services will be advertised for two (2) consecutive weeks in a local newspaper, a newspaper of general circulation, the Mississippi Procurement Technical Assistance Program (MPTAP) and on the City's electronic bidding site, www.centralbidding.com.
 - 3. The date as published for receipt of the Request for Qualifications shall not be less than seven (7) working days after the last published notice. All qualifications for services will be forwarded to the Consultant Selection Committee for review based upon the proposal and rating system set forth in the advertisement.
- (C) Each member of the Committee will receive a rating sheet to score each proposal received based upon qualifications/criteria. Each member of the Committee will complete the rating sheet using the same scoring and weighting criteria making their best effort to score each

statement of qualifications /criteria fairly and without bias. The rating sheet must be signed by each member of the Committee and maintained in the project file.

- (D) The Committee will then tally the scores from each rating sheet and rank each proposal.
- (E) Based upon the rating, a letter will be forwarded to the Board of Mayor and Aldermen of the City of Vicksburg recommending the selection of the project Professional. If the Board accepts the recommendation, the City Clerk will send an award letter to the selected Professional. For those candidates not selected, the City Clerk will send a letter advising them that they were not selected for the project.

Procedures for Procurement for Construction and Goods:

The City will adhere to the following procurement procedures for construction and goods:

- (A) Project Professional shall develop plans and specifications, and construction bid documents in accordance with Federal/State guidelines. Any construction over \$75,000 will be advertised for sealed bids.
- (B) The project will be advertised with specifications related to the construction or goods via sealed bids.
- (C) Bids will be solicited from MBE/WBE/DBE contractors. In case of sealed bids, bids will be received and opened on a day certain.
- (D) There will be a review of the bids or proposals by the Professional.
- (E) Based upon the criteria set forth in the contract documents, the Professional shall make a recommendation as to who the contractor or supplier will be.
- (F) The recommendation will be presented to the Board of Mayor and Aldermen at its Board Meeting.
- (G) If the Board accepts the recommendation, the bid will be awarded.

**Respondents will be given adequate time to prepare responsive bids or proposals, ensuring transparency in the opening and evaluating of bids and documenting the entire process. The award will be made only to a responsible bidder/vendor. A responsible bidder/vendor is one capable of performing successfully under the terms and conditions of the contract and who has not been debarred by the federal government.

Pre-construction conference:

Prior to starting the construction, the Professional shall have a pre-construction conference to go over the project and federal/state requirements, including Davis Bacon Act, WBE/MBE/DBE, Section 3, etc. if applicable, as well as the expectations of the Professional. The Board will issue a formal Notice to Proceed which sets the official date to start. The Professional will be responsible for the day-to-day administration of the project until the construction is completed. The Professional will ensure that all contractors adhere to the terms and conditions of the contract.

Purchase Orders for goods and/or Commodities:

Purchase orders shall be signed and issued by the Purchasing Director on behalf of the City. By accepting a Purchase Order, a vendor expressly agrees to be bound by the terms of the Purchase Order. Further, by accepting the Purchase Order, the vendor certifies that it, or its principals, are not debarred, suspended or proposed for debarment by the Federal Government. Debarment, suspension or proposed debarment by the Federal Government constitute grounds for automatic termination of the Purchase Order.

FEDERAL GRANT PROCUREMENT:

When procuring goods and services under a grant, the City of Vicksburg will ensure that every purchase order or other contract includes any clauses required by Federal Statutes and executive orders and their implementing regulations.

Methods for Procuring with Federal Funds:

There are five (5) methods that are to be used when making purchases with federal funds. The type of purchase method and procedures required will depend on the cost of the item(s) or services being purchased.

- (1) **Micro-Purchase (\$15,000 or less):** These are purchases of supplies or services using simplified acquisition procedures, the total amount of which does not exceed \$10,000. The micro-purchase method is used to expedite the completion of the lowest dollar small purchase transactions and minimize the associated administrative burden and cost. To the extent possible, the City will distribute micro-purchases equitably among qualified suppliers.
- (2) **Simplified Acquisition Procedures (Small Purchases Procedures): \$15,001–\$350,000):** Small purchases procedures shall be used in those simple and informal procurement methods for securing nonprofessional services, supplies, or other property that do not cost more than \$350,000.00. The City, at its discretion, may use price quotes for items costing less than \$350,000.00. *However, the City will obtain and retain written verification from an adequate number (3 or more) of qualified sources of the prices quoted.* Used for purchases within this range to expedite transactions. Requires obtaining price or rate quotes from an adequate number of qualified sources (usually three or more).

(3) **Sealed Bids (Formal Advertising)**: Procurement by sealed bidding procedures, also known as an Invitation for BID (IFB) is the competitive, formal method typically used for construction or supply contracts exceeding the \$350,000 threshold.

- (A) In order for sealed bidding to be successful, the following conditions are required:
 - i A complete, adequate, and realistic specification or purchase description is available;
 - ii Two or more responsible bidders are willing and able to compete effectively for the business; and
 - iii A firm fixed price contract wherein the selection of the successful bidder may be made principally based on price.

- (B) Additional requirements where sealed bids are used:
 - i The invitation for bids will be publicly advertised, and bids shall be solicited from an adequate number of known suppliers, providing them with sufficient time to submit bids prior to the date set for opening the bids;
 - ii The invitation for bids, which shall include specifications and pertinent attachments, shall define the items or services for the bidder to properly respond;
 - iii Bids will be publicly opened at the time and place prescribed in the invitation for bids.

(C) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents factors stated within the bids shall be considered in determining which bid is lowest.

(D) Bids may be rejected if there is a relevant documented reason.

(4) **Competitive Proposals (Negotiated Contracting)**:. Proposals are requested via a Request for Proposal (RFP), and awards are based on either "lowest price technically acceptable" (LPTA) or a "best value" tradeoff between cost and technical merit.

Procurement by competitive proposals:

- (A) The competitive proposal process is normally conducted with more than one source, submitting a bid or offer, and either a fixed price or cost reimbursement type contract is awarded.
 - i *RFPs are used to procure all professional services except for A/E professional services.*
 - ii This method of procurement has two parts, the Request for Proposal (RFP) and the Request for Qualification (RFQ).

- (B) If the RFP method is used, the following requirements apply:
- i Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposal shall be honored to the maximum extent practical. Proposal shall be advertised at least once in a newspaper of general circulation once each week for two (2) consecutive weeks with the second notice being published on or after the 7th calendar day after the first notice was published.
 - ii Proposals and/or qualifications will be solicited from an adequate number of qualified sources.
 - iii The City has established a method for rating the proposals received and for selecting awardees prior to solicitation.
 - iv Awards will be made to the firm whose proposal is most beneficial to the program based upon the criteria set forth in the proposal, including price.
 - v The City of Vicksburg may use competitive proposal procedures in soliciting qualifications-based procurement of professional services wherein competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. This method, where price is not used as a selection factor, can only be used in procurement of professional services.

(C) Competitive RFP Procurement Procedure:

- i Request for Proposal will be prepared and advertised at least once in a newspaper of general circulation once each week for two consecutive weeks with the second notice being published on or after the 7th calendar day after the first notice was published.
- ii The opening must not be less than seven (7) working days after the last notice appears in the newspaper. Therefore, the opening must not be sooner than the 8th working day.
- iii The City will submit the RFP to the Mississippi Procurement Technical Assistance Program (MPTAP) via the bid bank website located at www.agencybidbank.mississippi.org before or on the same day as the newspaper publication.
- iv The City will send the RFP to two (2) or more MBE\WBE firms. The MBE\WBE firm will be potential sources and qualified to provide the specific type of service being procured. RFPs must be received at the address stated in the legal advertisement, logged in and stamped with the date and time received prior to being opened.
- v Any RFP not received by the date and time stated in the legal advertisement will be returned unopened to the submitter. After receiving two (2) or more RFPs, the City will refer to its Consultant Selection Committee for review and evaluation. Where two (2) or more RFPs are not received, the City will conduct a cost analysis

to determine the reasonable cost and responsiveness of the bidder and award the selected respondent. *If no RFPs are received, the City will re-advertise the RFP.*

vi Each member of the Consultant Evaluation Committee will complete an Evaluation Tabulation Sheet for each Request for Proposal received. Each scorer will use the same scoring and weighting criteria, making their best effort to score each statement of qualification fairly and without bias. All Evaluation\Score sheets shall be individually signed.

vii The vendor whose proposal is determined to be the most advantageous to the project, based upon qualifications, price and other factors may be selected.

viii The City will notify all unsuccessful bidders in writing.

ix The City may execute contracts with the successful bidder and file all documents related to the procurement in the procurement historical file.

(D) Competitive RFQ Proposal Procurement Procedures:

i The City will prepare and advertise the Request for Qualifications (RFQ) at least once in a newspaper of general circulation once each week for two (2) consecutive weeks with the second notice being published on or after the 7th calendar day after the first notice was published.

ii The proposal opening shall not be less than seven (7) working days after the last notice appears in the newspaper. Therefore, the proposal opening must not be sooner than the 8th working day. Working days are defined as days when the City is officially open for business.

iii The City will submit the RFQ to the Mississippi Technical Assistance Program (MPTAP) via the bid bank website located at www.agencybidbank.mississippi.org before or on the same day as the newspaper publication.

1 The City will send the RFQ to two (2) or more MBE\WBE individuals or firm via certified mail. The MBE\WBE must be potential sources and is qualified to provide the specific type of service being procured.

2 RFQs must be received at the address stated in the legal advertisement, logged in and stamped with the date and time received prior to being opened. Any RFQ not received by the date and time stated in the legal advertisement will be returned unopened to the submitter.

iv After receiving two (2) or more RFQs, the City will submit RFQs to its Consultant Evaluation Committee for review and evaluation Where two (2) or more RFQs are not received, the City will conduct a cost analysis to determine the cost reasonable and/or responsiveness of the bidder and award the selected respondent. If no RFQs are received, the City will re-advertise the RFQ.

v Each member of the Consultant Evaluation Committee will complete an Evaluation Tabulation Sheet for each statement of qualifications received. Each

scorer will use the same scoring and weighting criteria making their best effort to score each statement of qualification fairly and without bias. All Evaluation\Score sheets shall be individually signed. The vendor with the highest number of points may be selected for price negotiations.

vi If unable to reach an agreement on the fees to be charged for services required, the Statement of Qualifications may be rejected and the vendor with the second highest number of points may be approached for price negotiations. This process may continue until an agreement is reached, so long as the vendor selected can provide the requested services based upon qualifications and other relevant factors. The score sheets must be signed by each of the Evaluation Committee and maintained in the project file.

vii The City will notify all unsuccessful bidders in writing.

viii The City may execute contracts with the successful bidder and file all documents related to the procurement in the procurement historical file.

(5) **Noncompetitive Proposals (Sole Source):**

Procurement by noncompetitive proposals may be used only in the award of a contract, if:

i The item is available only from a single source.

ii The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.

iii After solicitation of several sources, competition is determined inadequate.

iv The total amount of the procurement transactions does not exceed the micro-purchase threshold.

ALLOWABLE PURCHASES:

The City's Department of Finance and Administration and/or designated Project Manager is responsible for determining whether a purchase is an approved cost under the terms of the federal grant and will ensure purchases are in accordance with its policies. The City of Vicksburg is also responsible for ensuring all settlements and satisfaction of all contractual and administrative issues regarding contracts entered into by the City in support of an award. These matters include disputes, claims, protests of award, source evaluation, or other matters of a contractual nature.

ETHICAL CONSIDERATIONS:

The City will ensure that ethical safeguards exist and are maintained at all levels in the City and in all aspects of the procurement process. *Identifying and correcting unethical actions whether real or apparent in the procurement process and in the procurement of individual products and services is essential to maintain integrity. When an unethical action is identified, the City will immediately take action to correct it which may result in a removal of the contractor or subcontractor, or*

rejection of goods. In some cases, ethical violations could result in legal ramifications or prosecution of the contractor, subcontractor or vendor.

Code of Conduct:

Employees are expected to conduct themselves in a professional, business, and ethical manner, maintaining high standards of integrity as well as the use of good judgment.

Conflict of Interest:

- A. Employees of the City shall avoid real or apparent organizational conflicts of interest and noncompetitive practices among contractors with procurement supported by Federal funds. The procurement process shall be conducted in a manner to provide, to the maximum extent, practical, open and free competition.
- B. In short, no employee of the City, officer or agent, member of his\her immediate family, partner, or any organization that employs or is about to employ any of the above-named persons shall have any financial or other interest in the firm selected for award in accordance with the law and ethics opinions. Employees may not solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-contractors. Above-named parties shall not participate in selection, or in the award of or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.
- C. ***The City will impose appropriate sanctions or disciplinary actions, up to and including termination and/or prosecution, for any employee or officer who violates any of the requirements related to standards of conduct and conflict of interest.*** Any conflict of interest will be reported to the appropriate governmental agency within ten (10) business days of the notice of conflict by the City.
- D. Subcontractors' officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or from additional subcontractors.
- E. ***Violations of the conflict of interest provision will cause a removal of the contractor and a rebidding of the contract and\or possible legal action against contractor depending upon the nature of the infraction or breach.***
 - a. In the case of a subcontractor, the contractor shall immediately remove the subcontractor from the project and select a new subcontractor pursuant to prior established criteria.
 - b. A violation by the subcontractor may also result in legal action depending upon the nature of the infraction, conflict or breach.
- F. Any conflict of interest or breach by the subcontractor will be reported to the appropriate governmental agency within ten (10) business days of the notice of conflict by the City.

Organizational Conflicts of Interest:

An organizational interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the City is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. *The City will not do business with the organization(s), thereby avoiding an appearance of impropriety.* An Organizational Conflict of Interest does not apply against the state, other local governments or Indian tribes.

CONTRACTS PRE-EXISTING TO THE GRANT AWARD

1. When the City (a grantee) enters into a service-type contract in which the term is not concurrent with the budget period of the award, the City may charge the costs of the contract to the budget period in which the contract is executed:
 - A. The awarding office has been made aware of this situation either at the time of application or through post-ward notification.
 - B. The contract was solicited and secured in accordance with Federal procurement standards
 - C. The recipient has a legal commitment to continue the contract for its full term
2. Contract costs will be allowable only to the extent that they are for services provided during the grant's period of performance. The City will be responsible for contract costs that continue after the end of the grant budget
3. Piggybacking onto existing open contracts is generally unallowable.

DISPUTES:

1. The City is responsible for the settlement and satisfaction of all contractual and administrative issues related to contracts entered into in support of an award. This includes disputes, claims, protests of award, source evaluation, or other matters of a contractual nature.
2. To resolve disputes prior to beginning scope of work, services or receipt of goods, the Professional and Project Manager will hold a pre-construction meeting with all parties. Should any disputes arise, the decision regarding conflicts will be resolved by the Project Manager and Professional, in consultation with the Legal Department pursuant to the criteria set forth in the advertisement for the project, services or goods.
3. A protester dissatisfied with the decision of the Professional and City's Project Manager may submit an appeal, in writing, to the Board of Mayor and Aldermen within five (5) business days of the decision of the Professional and Project Manager.

- a. The protesting party shall state with specificity, in writing, his grievance\dispute with the decision rendered by the Professional and Project Manager.
 - b. A response from the Professional and Project Manager shall be submitted within five (5) business days of the initial protest. The Board will hear the matter and render a decision within a reasonable time period.
4. The Protester must exhaust all administrative remedies with the City prior to protesting to the awarding federal agency. Failure of the Protester to adhere to the above process within the time frame established will result in the decision of the Professional and Project Manager being final.
5. An appeal from the decision of the Board of Mayor and Aldermen must be filed in the Circuit Court of Warren County, Mississippi.

CONTRACT COST AND PRICE:

- A. The City will perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis will depend on the facts surrounding the particular procurement but at minimum, the City will make independent estimates before receiving bids or proposals.
- B. Cost analysis must be performed when the offeror is required to submit the elements of his/her estimated cost, e.g., under professional consulting, and architectural engineering services contracts.
 1. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.
 2. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
- C. The City and any of its contractors will 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. To establish a fair and reasonable profit, consideration will be given to 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 industry profit rates in the surrounding geographical area for similar work.
- D. Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent

.with Federal/State principles. The City may reference its own cost principles that comply with the applicable Federal/State cost principles.

- E. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

BID PACKAGE:

- 1. All Invitation for Bid packages must be in writing. The basic documents to be included in the Invitation for Bid package are:

- a. Cover Page with Table of Contents. (State the name, address and phone number of the person to contact for information regarding solicitation);
- b. The project name and solicitation number and table of content for the complete solicitation package;
- c. Bid Form — This is the form on which bidders enter their bid or price(s). The form must be clear, accurate and unambiguous;
- d. Specification and Statement of Work. (Description of the work or items required);
- e. Instructions to Bidders;
- f. Name of Contractor's On-Site Project Administrator;
- g. Representations, Certifications, and other Statements for Bidders;
- h. Licenses, Permits, Insurance and Workman's Compensation;
- i. General Conditions of the Contract for Construction contracts, along with any appropriate and relevant data.
- j. Federal Labor Standards Guidance and Wage Decision for construction work.

- 2. Notice of Solicitation: The solicitation must run for a period sufficient to achieve effective competition, which, in the case of paid advertisements, should generally be run not less than once each week for two consecutive weeks.

- 3. Bidding Requirements:

The City will accept bids in the following manner:

- a. Hand delivered package or mailed package to the City Clerk's Office (1401 Walnut Street, Vicksburg, Mississippi 39180) also known as paper bids. **BIDDERS ARE CAUTIONED THAT THE CITY CLERK DOES NOT RECEIVE THE DAILY U.S.**

MAIL ON OR BEFORE 9:00AM. BIDS WILL BE TIME-STAMPED ACCORDING TO THE CITY CLERK'S TIME CLOCK.

- b. On-line bid submittal on the City's web-based bidding site. The bidder would submit a bid through the City's Electronic bidding process. This information is contained in the initial bid proposal obtained by the bidder from the City Clerk's Office.
- c. Reverse bidding for goods only.

AMENDMENTS:

- A. If a change to the Invitation for Bid (IFB) becomes necessary after it has been issued, the change must be accomplished by issuing a written amendment, also referred to as an addendum.
- B. The amendment must indicate the IFB number, project title, issue date of the original Invitation for Bid and formally detail each change.
- C. Each amendment must be noted on the City's solicitation log.
- D. A copy of the amendment will be mailed to each prospective bidder who was provided with the initial bid package with acknowledgment requirement.
- E. If an amendment needs to be issued just before the scheduled bid opening date, the bid opening should be postponed for an adequate period of time to permit the potential bidders to fully analyze the change and to submit timely bids.

CANCELLING AN INVITATION FOR BID:

The City may cancel Invitation for Bids when necessary or when otherwise considered to be in the best interest of the City.

TIME AND PLACE CERTAINTY:

Each paper bid must be dated and timed stamped immediately upon receipt by the City. Paper sealed bids shall be stored in a locked safe to ensure that they are not opened or mishandled prior to the bid opening.

- A. An employee of the City or Contracted Administrator will standby just before the deadline to see that bids received at the proper location are dated and time stamped immediately logged in with the time\date of receipt and name of bidder.
- B. Sealed bids received after the time specified in the Invitation for Bid will be recorded as a late bid and kept unopened in the contract file.
- C. Bids may be electronically submitted via www.centralbidding.com . Specifications for an individual project may be purchased at the price provided on the website, or bidders may join centralbidding.com at the advertised cost per year and have access to specifications for all

projects out for bid. Bids submitted electronically will be time-stamped at the time of submittal and released to the City at the advertised date and time. Late electronic submissions will not be released to the City until after the deadline.

PUBLIC BID OPENING PROCESS:

- A. To ensure fairness in the award process, all bidders are permitted to attend the bid opening. Sealed bids shall not be opened any less than fifteen (15) working days after the last notice is published. Bids shall be publicly opened (or in the case of electronic bidding released to public) on the scheduled date and time shown in the solicitation.
- B. The Purchasing Director, designee, or Professional shall read aloud the bidder's names and bid prices. This information is recorded and the City may make it available for public inspection. No commitment or statement regarding contract award will be made to any bidder at the bid opening.
- C. All bids will be listed and documented on a bid tabulation sheet.
- D. Prior to opening of sealed bids, the City Clerk shall verify proof of publication.
- E. All received bids will be taken under advisement by the Board unless circumstances dictate otherwise.
- F. Upon award of bid, the clerk shall notify all bidders of the award of the bid.

PRE-QUALIFIED LIST OF VENDORS\CONTRACTORS:

The City may utilize a pre-qualified list of vendors and contractors. The City will keep a current list developed through open solicitation that includes an adequate number of qualified sources. Although, the City may utilize a pre-qualified list of vendors and contractors, other firms will be allowed to qualify at any time during the solicitation period.

BIDDER BOUND BY BID:

Bidders will be bound by their bids; however, circumstances may arise where correction or withdrawal of bids is proper and may be permitted.

MISTAKES BEFORE BID OPENING:

Unless otherwise prohibited, bidders will be permitted to withdraw or modify their bids by written letter notice prior to bid opening.

REVIEW OF BIDS FOR MISTAKES:

After the bid opening, the Purchasing Director, designee or Professional will carefully review all bids to ensure that the bidders have not made any obvious mistakes in their bids. If a bidder appears to have made a mistake, the Purchasing Director, designee, or Professional will immediately notify a bidder of any apparent mistake in his\her bid and request verification of the bid as submitted. The Purchasing Director, designee or Professional will notify the bidder by phone and follow up with

a letter containing the information communicated by phone. The Purchasing Director, designee or Professional shall place a copy of the letter or otherwise document the procurement file.

MISTAKES AFTER BID OPENING:

In general, bidders will not be permitted to change a bid after bid opening. However, in rare cases, the Purchasing Director, designee or Professional may permit the revision of a bid if the bidders are able to present clear and convincing evidence of a mistake and the intended bid price. To not undermine the integrity of the bid process or/and public confidence in the bidding process, the Purchasing Director, designee or Professional will request as much evidence as he\she deems appropriate. If the bidder fails to submit the requested information, the original bid will remain unchanged.

WITHDRAWAL OF BIDS:

- A. Withdrawal of a bid will be permissible if there is an obvious error in the bid such as a math error, but the mistake must be readily apparent from the bid itself. A bidder may be permitted to withdraw a low bid if a mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident.
- B. A bidder may also be permitted to withdraw a low bid if the bidder submits written evidence that clearly and convincingly demonstrates that a mistake was made.
- C. The City will require written supporting evidence before allowing withdrawal by the bidder.
- D. If the bidder is able to withdraw his\her bid, the bid bond will be returned to the bidder upon verification of the error.
- E. Prior to allowing the withdrawal of a bid, the Purchasing Director, designee, or Professional will consult with the City's legal counsel.

DETERMINING RESPONSIVENESS OF BID AND CONTRACTOR'S RESPONSIBILITY:

- A. A bid must conform to the material requirements of the Invitation for Bid. The Purchasing Director, designee or Professional will examine the low bid to be sure that the bidder did not alter the specifications or other terms and conditions or attempt to impose different terms and conditions.
- B. If the bid does not conform to the solicitation, it will be rejected and the next lowest bid examined for responsiveness.
- C. The Purchasing Director, designee or Professional shall document his\her findings regarding the low bidder's responsiveness in the procurement file. Minor informalities will not be grounds for determining a bid to be nonresponsive.
- D. After determining the responsiveness of the low bid, the Purchasing Director, designee or Professional shall determine if the bidder is responsible.

STATE PROCUREMENT PROCEDURES:

A. Bidding Procedure for Purchases Not Over \$5,000.00:

Purchases which do not involve an expenditure of more than Five Thousand dollars (\$5,000.00), exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive bids. However, nothing in this policy shall prohibit the City from establishing procedures which require competitive bids on purchases of five thousand dollars (\$5,000.00) or less.

B. Bidding Procedure for Purchases over \$5,000.00 But Not Over \$75,000.00:

Purchases which involve an expenditure of more than five thousand dollars (\$5,000.00) but not more than seventy-five thousand dollars (\$75,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. Best Bids to meet requirements set forth at Section 31-7-13 (d) of the Mississippi Code.

C. Bidding Procedure for Purchases over \$75,000.00 Publication Requirement:

1. Purchases which involve an expenditure of more than seventy-five thousand dollars (\$75,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder after advertising for competitive bids once each week for two (2) consecutive weeks in a local newspaper.
2. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Seventy-five thousand dollars (\$75,000.00), such bids shall not be opened less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks in a local newspaper.
3. If there is no newspaper published in the municipality, then such notice shall be given by posting same at the city hall, and at two (2) other public places in the municipality, and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the municipality or in the county where the municipality is situated.
4. On the same date that the notice is submitted to the newspaper for publication, the City shall mail written notice to or provide electronic notification to the main office of the Mississippi Procurement Technical Assistance Program providing the same information as that in the published notice.

D. Bidding Process Amendment Procedure:

1. Plans and/or specifications published in the notification may not be amended.
2. Plans and/or specifications *not published in the notification*, then amendments can be made to the plans/specifications, bid opening date, bid opening time and place provided that the City maintains a list of all prospective bidders who received a copy of the bid documents and all such prospective bidders are forwarded copies of all amendments. The notification will be sent either through mail, fax, email or other generally accepted method of distribution.
3. No addendum to bid specifications may be issued within two (2) working days of the time established for the receipt of bids unless such addendum also amends the bid opening to a date not less than five (5) working days after the date of the addendum.

E. Filing Requirement:

Prior to the notice being published or posted the plans/specifications for the construction or equipment being sought will be filed with the City Clerk's Office. There shall be a bid file established which shall indicate those vendors to whom such solicitations and specifications were issued. The file shall also contain information pertinent to the bid.

F. Lowest and Best Bid Decision Procedure:

1. Purchases may be made from the lowest and best bidder. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation.
2. If the Board accepts a bid other than the lowest bid actually submitted, it shall place on its Minute's detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid.

G. Negotiation Within Ten (10%) Percent:

If the lowest and best bid is not more than ten percent (10%) above the amount of funds allocated for a public construction or renovation project, then the City may negotiate with the lowest bidder to enter into a contract for an amount not to exceed the total allocated funds.

H. Period of Availability of Federal Funds:

All funds must be spent and obligations settled between the beginning and ending dates of the grant project unless otherwise extended by the federal government.

AGENCY REVIEW:

The City and any contractors shall maintain and have available documents of technical specifications on proposed procurements wherein it is believed such technical specifications are needed to ensure that the item and/or service specified is the one being proposed for purchase. The City or its contractor will, on request, make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

- A. The City's or its contractor's procurement procedures or operation fails to comply with the procurement standards; or
- B. 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; or
- C. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product; or
- D. The proposed award 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
- E. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

EXEMPTIONS FOR PRE-AWARD REVIEW:

The City or its contractor will be exempt from the pre-award review if the awarding agency determines that its procurement systems comply with the standard set forth in section 24 CFR Part 85.

- (i) The City or its subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets the standards in order for its system to be certified.
- (ii) The City or its subgrantee may self-certify its procurement system. Such self certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the City or its subgrantee that it is complying with these standards.

TERMINATION PROVISIONS:

A. Termination for Cause or Convenience:

- 1. Any contract in the amount of \$ 10,000.00 or more may be terminated by the City for cause or convenience. The termination for cause may take place based upon any misconduct, breach or conflict of interest.

2. The Project Manager and Professional, in consultation with the Legal Department will review the action of the contractor and determine what if any legal action is to be taken.
3. Termination for convenience will occur if the Professional and Project Director in consultation with the Legal Department determine that the continuation with the contract is not in the best interest of the City or any other reason so articulated by the City.
4. In either case, the contractor shall be notified to stop work and issue a stop work notice to any subcontracts and place no future orders for goods or services. The notification shall be sent by a means that will allow for proof of receipt by the contractor.
5. **Funds shall be frozen.** The contractor shall submit a cost bill of all money alleged to be due and owing within thirty (30) days of the notice and receipt of the stop work order.
6. The Project Director and Professional shall review the cost bill submitted by the contractor. The Project Director and Professional, in consultation with the Legal Department, shall determine the settlement of all claims.
7. In case of dispute, the contractor shall submit a protest to the Board of Mayor and Aldermen within ten (10) business days of the decision of the City to stop work. The Project Director and Professional shall submit a response within five (5) business days of protester claim.
8. The Board of Mayor and Aldermen shall review the matter and render a decision within a reasonable amount of time.
9. Any appeal from the decision of the Board of Mayor and Aldermen shall be to the Circuit Court of Warren County, Mississippi.

B. Termination by Default:

1. The City may terminate the contract with a contractor for failure to comply with the terms and conditions of the contract, failure to supply goods that comply with the terms and conditions of the contract or any other failure on the part of the contractor, save and except circumstances beyond the control of the contractor.
2. In the case of the contractor's failure or inability to complete the work according to the terms and conditions of the contract, or to cure the default, shall immediately, in writing, advise the City of the default and work that has not been performed pursuant to the contract.
3. ***Should the City discover the default, the City will notify the contractor immediately, in writing, of the default and order work to cease until either the default has been cured*** which will allow the work to resume, or the contract terminated.
4. In case of termination, the contractor shall submit to the City any cost he\she maintains is owed to him\her. The City will determine if any money is owed and the cost to complete the work to be done. If the cost exceeds what is left under the contract, the City may sue the contractor for the balance due to complete the project, save and except, in cases where the default was beyond

the control of the contractor. In this case, the contractor may be allowed to cure or be paid the balance due him for the work performed.

5. *In the case of non-conforming goods, the City shall not pay for said goods. The expense for such goods shall fall to the contractor unless the contractor is able to cure.*
6. In case of dispute from a decision regarding whether money is owed on goods alleged not to conform to the terms and conditions of the contract, contractor shall submit a protest to the Board of Mayor and Aldermen within five (5) business days of the decision of the Professional and Project Director in consultation with the Legal Department.
7. The Professional and Project Director shall submit a response within five (5) business days of protester's claim to the Board. The Board of Mayor and Aldermen shall review the matter and render a decision within a reasonable amount of time.
8. Any appeal from the decision of the Board of Mayor and Aldermen shall be to the Circuit Court of Warren County, Mississippi.

REQUIRED CONTRACT PROVISIONS

Federal Law Provisions

In addition to other provisions required by Federal government, all contracts made by the City under Federal (and sometimes State) award must contain provisions covering the following, as applicable:

Equal Employment Opportunity:

The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.

Davis-Bacon Act:

The City of Vicksburg and its contractors will adhere to all provisions of the Davis-Bacon Act when required by the Federal/State funding agency.

1. The Davis-Bacon Act applies to contractors and subcontractors performing on federally funded or assisted contracts more than \$2,000.00 for the construction, alteration, or repair of public buildings or public works.
2. Prime contracts more than \$100,000 contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek.

3. Under the Act, it provides that requirements are applicable to construction work and provides that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous.

Minority Business Participation:

The City will adhere to provisions required by the federal guidelines for Women Business Enterprise (WBE) and Minority Business Enterprise (MBE). The City will use the list developed by the Mississippi Development Authority (MDA).

Copeland "Anti Kickback" Act:

The City will comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The City must report all suspected or reported violations to the Federal awarding agency.

Clean Air Act:

The City will comply with the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387) as amended: Contractors and subgrants of amounts in excess of \$150,000.00 with all applicable standards, orders and regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). Any violation will be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Debarment and Suspension:

The City will comply with the (Executive Orders 12549 and 12689) — Debarment and Suspension Provision. A contract award (see 2 CFR 180.220) will not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Order 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p.235), "Debarment and Suspension". SAM Exclusions contain the names and parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Byrd Anti-Lobbying Amendment:

The City will comply with Byrd Anti-Lobbying Amendment (31 U.S.C. 1352): Contactors that apply or bid for an award exceeding \$100,000.00 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier to the non-Federal award.

State Law Provisions

Bonding Requirements:

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the minimum requirements are set forth below:

- (1) A bid guarantee from each bidder equivalent to five percent of the bid price. 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.
- (2) 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 the contract.
- (3) 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.
- (4) Bonds shall be obtained from companies holding certificates of authority as acceptable sureties, i.e. "Surety Companies Doing Business with the United States".

RECORD RETENTION:

The City of Vicksburg will retain all records regarding each project for a minimum of three (3) years after the completion of the project or the length of time specified by each grant.

RECORDS REVIEW:

That all awarding agencies and any of its duly authorized representatives, as well as the City shall have a right to inspect and examine any and all records directly pertinent to a specific program for the purpose of audits, etc., save and except small purchase.

The City of Vicksburg fiscal year ends September 30th of each and every year. The City opted to comply with 2 CFR 200 procurement standards beginning its fiscal year on October 1st of each and every year.