

SECTION 1

**PREFACE-
INTRODCUTION &
BACKGROUND**

Introduction and Background

The Richland County Office of Procurement and Contracting Procedures Manual constitutes implementing guidance for Richland County Code Chapter 2, Article X. It is intended to provide standardized procedures for purchasing and procurement of goods and services. The Richland County Code and the *Richland County Office of Procurement & Contracting Procedures Manual* provides for procurement of goods and services in support of both non-federal and federal contracts.

Federal Contracting, specifically CDBG-DR

In addition to local and state law, procurement for CDBG-DR programs is governed by federal regulations under 24 CFR Part 570, 24 CFR Part 85, and 2 CFR 200.318-200.36. The Richland County Office of Procurement and Contracting is currently following the Richland County Code and the following procedures contained in this procedures manual. Where these standards are equally or more restrictive as the federal requirements. However, where the local procurement standards are less restrictive, the more stringent federal requirements will be followed for CDBG-DR programs.

1. Contracting Oversight

Contracting oversight is provided in the *Contracting Officer's Representative (COR) Operating Procedure*. This procedure is attached to this *Procedures Manual*.

2. Contracting Mechanisms

a. Time and material

Time and material contracting vehicles are discouraged and should only be used after a determination that no other contract type is suitable. If a time and material contract must be used, it must include a ceiling price that the contractor exceeds at its own risk. Any time and material contract that is issued will require additional oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

b. Prohibition against cost plus contracts

Cost plus a percentage of cost and percentage of cost methods of contracting may not be used.

3. Federal Awarding Agency or Pass-through Entity Review

The County is complying with the standards set forth in 2 CFR 200 and will make available all procurement policies for review. The County will make available to the Federal awarding agency, technical specifications on proposed procurements where the Federal awarding agency believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. The County will make available, upon Federal awarding agency request, pre-procurement documents, independent cost estimates, and other documentation to demonstrate the County's controls and procedures.

4. Federal Contact Provisions

All contracts made under the CDBG-DR award must contain provisions contained in Appendix II to 2 CFR 200, covering the following, if applicable:

- (A) Contracts in excess of the simplified acquisition threshold of \$150,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) Contracts in excess of \$10,000 must address termination for cause and for convenience by the County including the manner by which such termination will be effected and the basis for settlement.
- (C) Equal Employment Opportunity.
Compliance with the:
- (D) Davis Bacon Act, as amended (40 USC 3141-3148).

(E) Contract Work Hours and Safety Standards Act (40 USC 3701-3708) and the Anti-Kickback Act (40 USC 3145).

(F) Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements (37 CFR 401).

(G) Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387).

(H) Energy Policy and Conservation Act (42 USC 6201).

(I) Executive Orders 12549 and 12689 Debarment and Suspension

(J) Byrd Anti-Lobbying Amendment (31 USC 1352).

(K) Procurement of recovered materials.

SECTION 2
ACQUISITION PLANS

Acquisition Plans

a. The Procurement Department performs acquisition planning and market research for all acquisitions in order to promote and provide for:

- (1) Acquisition of items suitable to meet the County's needs; and
- (2) Full and open competition

b. This planning shall integrate the efforts of all personnel responsible for significant aspects of the acquisition. The purpose of this planning is to ensure that the County meets its needs in the most effective, economical, and timely manner.

Procurement Director Responsibilities

The director or a designee shall prescribe procedures for:

- a. Promoting and providing for full and open competition.
- b. Encouraging offerors to supply needed items.
- c. Ensuring that requisitioners address the requirement to specify needs, develop specifications and scope of work in such a manner to promote and provide for full and open competition with due regard to the nature of the supplies and services to be acquired.
- d. Ensuring that requisitioners avoid unnecessary and unjustified bundling that precludes disadvantaged business participation.
- e. Ensuring that the principles of this section are used, as appropriate, for those acquisitions.
- f. Designating buyers for acquisitions.
- g. Reviewing and approving acquisition plans and revisions to these plans.
- h. Establishing criteria and thresholds.
- i. Establishing standard acquisition plan formats, if desired, suitable to department needs.
- j. Waiving requirements of detail and formality, as necessary, in planning for acquisitions having compressed delivery or performance schedules because of the urgency of the need.
- k. Ensuring that department planners include use of the system of measurement in proposed acquisitions.
- l. Ensuring that knowledge gained from prior acquisitions is used to further refine requirements and acquisition strategies.

Procedures

a. Acquisition planning should begin as soon as the department need is identified, preferably well in advance of the fiscal year in which contract award or order placement is necessary.

In developing the plan, as necessary, the buyer may form a team consisting of all those who will be responsible for significant aspects of the acquisition, such as contracting, fiscal, legal, and technical personnel. Early in the planning process, the buyer should consult with the requisitioner to determine type, quality, quantity, and delivery requirements.

c. The buyer shall coordinate with and secure the concurrence of the Contracting Officer in all acquisition planning.

Contents of Acquisition Plan

(a) State all significant conditions affecting the acquisition, such as-

- (1) Requirements for compatibility with existing or future systems or programs; and
- (2) Any known cost, schedule, and capability or performance constraints.

(b) Specify the required capabilities or performance characteristics of the supplies or the performance standards of the services being acquired and state how they are related to the need.

(c) Describe the basis for establishing delivery or performance-period requirements. Explain

and provide reasons for any urgency if it results in concurrency of development and production or constitutes justification for not providing for full and open competition.

(d) Discuss technical, cost, and schedule risks and describe what efforts are planned or underway to reduce risk and the consequences of failure to achieve goals. If concurrency of development and production is planned, discuss its effects on cost and schedule risks.

(e) Indicate the prospective sources of supplies or services that can meet the need. Consider required sources of supplies or services. Include consideration of small business, and disadvantaged business concerns and the impact of any bundling that might affect their participation in the acquisition. Describe how competition will be sought, promoted, and sustained throughout the course of the acquisition. If full and open competition is not contemplated, cite the authority, discuss the basis for the application of that authority, identify the source(s), and discuss why full and open competition cannot be obtained.

(f) Discuss the source-selection procedures for the acquisition, including the timing for submission and evaluation of proposals, and the relationship of evaluation factors to the attainment of the acquisition objectives.

(g) Include budget estimates. Explain how they were derived, and discuss the schedule for obtaining adequate funds at the time they are required.

(h) Indicate any property to be furnished to contractors, including material and facilities, and discuss any associated considerations, such as its availability or the schedule for its acquisition. Discuss any County information, such as manuals, drawings, and test data, to be provided to prospective offerors and contractors.

SECTION 3
SOURCE SELECTION

Source Selection

This section prescribes the policy and procedures that are to be used to promote and provide for full and open competition.

Policy

(a) The Procurement Director, with certain limited exceptions, shall promote and provide for full and open competition in soliciting offers and awarding contracts.

(b) The Director shall provide for full and open competition through use of the competitive procedure(s) that are best suited to the circumstances of the contract action and consistent with the need to fulfill the County's requirements efficiently.

Methods of Source Selection

The methods of source selection to attain competition are accomplished through the formal and informal solicitation process:

(a) Formal solicitations must be advertised at a minimum in a publication of general circulation in the county, giving a brief description of the things to be purchased, the time and place where solicitations will be accepted or opened, and a location or telephone number where solicitations and complete specifications may be secured.

(b) Informal solicitations are usually not advertised and are usually solicited by telephone or other electronic or print medium.

(c) These method of solicitations are also determined by competitive threshold;

Competitive Procedures

The competitive procedures available for use in fulfilling the requirement for full and open competition are as follows:

(a) Sealed bids.

- 1) Fixed price bidding;

(b) Combination of competitive procedures. If sealed bids are not appropriate, the director may use any of the following competitive procedures:

- 1) Two-step bidding;
- 2) Best value bidding;
- 3) Negotiations after unsuccessful competitive sealed bidding

(c) Competitive Request for Proposals (RFP). If sealed bids are not appropriate the director may request competitive proposals or use other competitive negotiated procedures.

(d) Request for Qualifications (RFQ). Although not a competitive procedure, it is used for determining the qualifications of participants for competitive or negotiated requirements.

(e) Blanket Purchase Order (BPO). A blanket purchase order shall be utilized as a simplified method of filling anticipated repetitive needs for supplies, goods or services by establishing "charge accounts" with qualified sources of supply. BPO(s) are normally established for supplies, goods, or services for which the price and required specifications are determined and remains consistent, for a pre-determined amount and a pre-determined timeframe.

(f) Quotes. A quote is not an offer or a binding contract. Therefore, issuance of a purchase order (PO) in response to a vendor's quotation does not establish a binding contract. The purchase order is an offer by the County to the vendor to make certain purchases for goods, supplies or services upon specified terms and conditions. A contract is established when the vendor accepts the offer in writing or delivers the supplies, goods or services. If the County issues an order resulting from a quotation, the County may (by written notice to the vendor, at any time before acceptance occurs) withdraw, amend, or cancel its offer.

(g) Sole Source Purchase. A sole source is when only one vendor possesses unique and singularly available capacity to meet the requirements such as technical qualifications, ability to deliver at and in a particular time. When the required supplies or services are available from only one source and no other type of property or services will satisfy the need. Sole Source is when the product is available from only one source, often determined by patent or copyright protection, proprietary rights and capacity of one supplier to provide superior capabilities unobtainable from any other supplier for similar products.

Sole Source must be justified with information of efforts undertaken to locate possible alternative supplier. An explanation of the reason that specifications suitable for full and open competition could not be developed and that it is necessary and in the county's best interest to use Sole Source rather than full and open competition. Sole Source addresses the source of a product or services not the item itself.

(h) Emergency Purchase. An emergency is when there is an unexpected situation or sudden occurrence of a serious and urgent nature that causes an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions and any other reason as defined in the laws and regulations of the state, and proclaimed by the County Council, County Administrator or authorized representative.

The occurrence of emergency conditions must create an immediate and serious need which cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (1) the functioning of the County government;
- (2) the preservation or protection of property; and
- (3) the health, welfare, or safety of any person



SECTION 4
ADVERTISEMENT

Advertisement

This part prescribes policies and procedures for advertising formal solicitations opportunities and information.

a. Policy

The Director of Procurement must advertise all formal solicitations in order to-

- (1) Increase competition;
- (2) Broaden business participation in meeting requirements; and
- (3) Assist small, minority, disadvantaged and women-owned business concerns in obtaining contracts and subcontracts.

b. Dissemination of Information

Advertisements of formal solicitation will be disseminated through a publication of general Circulation; Other advertising initiative shall be utilized like the County Webpage, purchasing professional associations and trade journals to include any other medium necessary to reach businesses. Advertisements published in newspapers must be under proper written authority.

Advertisements shall contain at a minimum the following information:

- 1) Brief description of goods, equipment, services or construction to be purchased;
- 2) Address, date and time of public conferences, openings or acceptance;
- 3) Type of bonds required, if applicable;
- 4) Where solicitation documents can be obtained;
- 5) Any required deposits, if applicable;
- 6) Qualification provisions, if applicable;
- 7) County, Department or office.

SECTION 5

REQUESTS FOR BIDS (RFB)

Requests For Bids (RFB)

Request for bids is a formal process consisting of the following elements: competition, public opening, and awards.

The RFB process consists of the following steps:

(a) Preparation of RFB. Bids must describe the requirements of the County clearly, accurately, and completely.

- 1) Developing specifications or requirements that will not limit the number of competitors.
- 2) Developing price schedule, general and special conditions
- 3) The RFB also includes all documents (whether attached or incorporated by reference) furnished prospective bidders for the purpose of bidding.

(b) Publicizing the request for bids.

- 1) Bids must be advertised through a publication of general circulation in the County.
- 2) The advertisement shall detail the time, day, date, and place of opening.
- 3) It must have a brief description of items to be purchased, a place of distribution to prospective bidders, posting in an accessible location in the office of procurement, and such other means as may be appropriate.
- 4) The advertisement must be published in sufficient time before public opening of bids to enable prospective bidders to prepare and submit bids.

(c) Submission of bids. Bidders must submit sealed bids to be opened at the time and place stated in the solicitation for the public opening of bids.

(d) Evaluation of bids. Bids will be evaluated for material compliance with the specifications and scope of work, responsiveness, and responsibility and they shall be evaluated without discussions.

(e) Contract award. After bids are publicly opened, an award will be made with reasonable promptness to the lowest, responsible, responsive bidder whose bid, materially conforms to the request for bids, which will be most advantageous to the County, considering only the price and the other-related factors included in the solicitation.

(f) Sealed bids. The procurement director shall solicit sealed bids if-

- 1) Time permits the solicitation, submission, and evaluation of sealed bids;
- 2) The award will be made on the basis of price and other-related factors;
- 3) It is not necessary to negotiate or conduct discussions with respondents in reference to their bids; and
- 4) There is a reasonable expectation of receiving more than one sealed bid.

(g) Solicitation Mailing List. The company name, e-mail address, telephone, fax number and mailing address, when available, of prospective bidders who requested the RFB shall be added to a solicitation mailing list and made a part of the record.

(h) Fixed Price Contract. Firm-fixed-price contracts shall be used when the method of contracting is sealed bidding.

(i) Bidding time.

- 1) Policy. A reasonable time for prospective bidders to prepare and submit bids shall be allowed in all requests for bids, consistent with the needs of the County. The time

between issuance and opening of the solicitation should be at least 30 calendar days.

2) Factors to be considered. To avoid unduly restricting competition or paying higher-than-necessary prices, consideration shall be given to such factors as the following in establishing a reasonable bidding time:

- i) Degree of urgency; and
- ii) Complexity of requirement.

Pre-bid conference

A pre-bid conference may be used, generally in a complex solicitation, as a means of briefing prospective bidders and explaining complicated specifications and requirements to them as early as possible after the solicitation has been issued and before the bids are opened. It shall never be used as a substitute for amending a defective or ambiguous solicitation.

Release of solicitation information

(a) Before solicitation. Information concerning proposed acquisitions shall not be released outside the County before solicitation. Releases of information shall be made to:

- (1) To all prospective bidders, and
- (2) As nearly as possible at the same time, so that one prospective bidder shall not be given unfair advantage over another.

(b) After solicitation. Discussions with prospective bidders regarding a solicitation shall be conducted and technical or other information shall be transmitted only by the Procurement Director or superiors having contractual authority or by others specifically authorized. Such personnel shall not furnish any information to a prospective bidder that alone or together with other information may afford an advantage over others. More specific information or clarifications may be furnished by amending the solicitation

Amendment of solicitation for bids

(a) If it becomes necessary to make changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous solicitation, such changes shall be accomplished by amendment of the solicitation for bids. The fact that a change was mentioned at a pre-bid conference does not relieve the necessity for issuing an amendment. Amendments shall be sent, before the time for bid opening, to everyone to whom solicitations have been furnished and shall be posted on the Procurement Department website.

(b) Before amending a solicitation for bids, the period of time remaining until bid opening and the need to extend this period shall be considered. When only a short time remains before the time set for bid opening, consideration should be given to notifying bidders of an extension of time by email. Such extension must be confirmed in the amendment.

(c) Any information given to a prospective bidder concerning a solicitation for bids shall be furnished promptly to all other prospective bidders as an amendment to the solicitation-

- (1) if such information is necessary for bidders to submit bids or
- (2) if the lack of such information would be prejudicial to uninformed bidders.

Electronic bids

The Procurement Director may authorize use of electronic submission of bids. If electronic bids are authorized, the solicitation shall specify the electronic commerce method(s) that bidders may use.

Bid samples

(a) Policy.

- (1) Bidders shall not be required to furnish bid samples unless there are characteristics of the product that cannot be described adequately in the specification or purchase description.
- (2) Bid samples will be used only to determine the responsiveness of the bid and will not be used to determine a bidder's ability to produce the required items.
- (3) Bid samples may be examined for any required characteristic, whether or not such characteristic is adequately described in the specification.
- (4) Bids will be rejected as non-responsive if the sample fails to conform to each of the characteristics listed in the solicitations.

(b) When to use. The use of bid samples would be appropriate for products that must be suitable from the standpoint of balance, facility of use, general "feel," color, pattern, or other characteristics that cannot be described adequately in the specification.

(c) Requirements *for samples in solicitations for bids.*

(1) Request for Bids shall-

- (i) State the number and, if appropriate, the size of the samples to be submitted and otherwise fully describe the samples required; and
- (ii) List all the characteristics for which the samples will be examined.

(d) Waiver of requirement for bid samples. The requirement for furnishing bid samples may be waived when a bidder offers a product previously or currently being contracted for or tested by the County and found to comply with specification requirements conforming in every material respect with those in the current solicitation.

(e) Unsolicited samples. Bid samples furnished with a bid that are not required by the solicitation generally will not be considered as qualifying the bid and will be disregarded. However, the bid sample will not be disregarded if it is clear from the bid or accompanying papers that the bidder's intention was to qualify the bid.

(f) Handling bid samples.

- (1) Samples that are not destroyed in testing shall be returned to bidders at their request and expense, unless otherwise specified in the solicitation.
- (2) Disposition instructions shall be requested from bidders and samples disposed of accordingly.
- (3) Samples will be disposed of within 30 days of Award if disposition instructions are not given with bid.
- (4) Samples that are to be retained for inspection purposes in connection with deliveries shall be transmitted to the inspecting activity concerned, with instructions to retain the sample until completion of the contract or until disposition instructions are furnished.
- (5) Where samples are consumed or their usefulness is impaired by tests, they will be disposed of as scrap unless the bidder requests their return.

Descriptive Literature.

(a) Descriptive literature is needed before award to determine whether the products offered meet the specification and to establish exactly what the bidder proposes to furnish.

(b) *Requirements of solicitation for bids.*

(1) The solicitation must clearly state-

- (i) What descriptive literature the bidders must furnish;

- (ii) The purpose for requiring the literature; and
- (iii) The rules that will apply if a bidder fails to furnish the literature before bid opening or if the literature provided does not comply with the requirements of the solicitation.

(c) *Waiver of requirement for descriptive literature.*

(1) The Procurement Director may waive the requirement for descriptive literature if-

(i) The bidder states in the bid that the product being offered is the same as a product previously or currently being furnished to the contracting activity; and

(2) When descriptive literature is not necessary and a waiver of literature requirements of a specification has been authorized, the Procurement Director must include a statement in the solicitation that, despite the requirements of the specifications, descriptive literature will not be required.

(3) If the solicitation provides for a waiver, a bidder may submit a bid on the basis of either the descriptive literature furnished with the bid or a previously furnished product. If the bid is submitted on one basis, the bidder may not have it considered on the other basis after bids are opened.

(e) *Unsolicited descriptive literature.* If descriptive literature is furnished when it is not required by the solicitation for bids, it will not be considered and will be disregarded. However, the bid literature will not be disregarded if it is clear from the bid or accompanying papers that the bidder's intention was to qualify the bid.

Final review of solicitations

Each solicitation shall be thoroughly reviewed before issuance to detect and correct discrepancies or ambiguities that could limit competition or result in the receipt of non-responsive bids. The Procurement Director is responsible for the reviews.

Records of solicitations and records of bids

(a) The Procurement Office shall retain a record of each solicitation that it issues and each abstract or record of bids.

(b) The file for each solicitation shall show the distribution that was made and the date the solicitation was issued. The names and addresses of prospective bidders who requested the solicitation must be included in the solicitation and shall be added to the list and made a part of the record.

Solicitation mailing lists

(a) Establishment of lists.

(1) All eligible and qualified vendors that have submitted a request for the solicitation shall be placed on the appropriate solicitation mailing list.

(2) The names of prospective bidders who are furnished solicitations in response to their requests shall be added to the list so that they will be furnished copies of any solicitation amendments, etc.

(b) Removal of names from solicitation mailing lists.

(1) The name of each Vendor failing to either

- (i) submit a bid,
- (ii) respond to a mandatory pre-solicitation conference, or
- (iii) otherwise respond to a solicitation for bids may be removed from the County Vendor listing without notice to the Vendor. However, the removal shall be limited to the items involved in the solicitation or notice.

(2) Vendors that have been debarred or suspended from doing business with the County or otherwise determined to be ineligible to receive an award shall be removed from solicitation mailing lists to the extent required by the debarment, suspension, or other determination of ineligibility.

Release of solicitation mailing lists

(a) The Procurement Office shall make the mailing lists available in response to written request from those having a bona fide interest. When solicitations for bids for construction have been issued, trade journals, prospective subcontractors, material suppliers, etc., will be supplied upon request with a list of all prospective bidders who were furnished copies of the plans and specifications. The Procurement Office may require a written request.

Cancellation of solicitations before opening

(a) Solicitations may be cancelled if it is clearly in the County best interest; e.g.

- (1) Where there is no longer a requirement for the supplies or services; or
- (2) Where amendments to the solicitation would be of such magnitude that a new solicitation is desirable.
- (3) Where the County has elected to renegotiate with incumbent;
- (4) Non-availability of funds.

(b) When a solicitation issued is cancelled, bids that have been received shall be returned unopened to the bidders and notice of cancellation shall be sent to all prospective bidders to whom solicitations were issued.

(c) When a solicitation issued electronically is cancelled, a general notice of cancellation shall be posted electronically.

(d) The notice of cancellation shall-

- (1) identify the solicitation for bids by number and short title or subject matter,
- (2) briefly explain the reason the solicitation is being cancelled, and
- (3) where appropriate, assure prospective bidders that they will be given an opportunity to bid on any re-solicitation of bids or any future requirements for the type of supplies or services involved.

Amendments to Bids

(a) When a solicitation is amended, then all terms and conditions not modified shall remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation:

- (1) by signing and returning the amendment;
- (2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting a bid;
- (3) by letter or telegram; or
- (4) by facsimile;
- (5) The Procurement Office must receive the acknowledgment of amendment by the time

and at the place specified for receipt of bids.

Bids Preparation

- (a) Bidders are expected to examine the drawings, specifications, Schedule, and all instructions.
- (b) Each bidder shall furnish the information required by the solicitation. The bidder shall sign the bid and print or type its name on the Schedule and each continuation sheet on which it makes an entry.
- (c) The person signing the bid must initial erasures or other changes. Bids signed by an agent shall be accompanied by evidence of that agent's authority.
- (d) For each item offered, bidders shall
 - (1) Show the unit price, including, unless otherwise specified, packaging, packing, and preservation; and
 - (2) enter the extended price for the quantity of each item offered in the "Amount" column of the Schedule. In case of discrepancy between a unit price and an extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake
- (e) Bids for supplies or services other than those specified will not be considered unless authorized by the solicitation.
- (f) Bidders must state a definite time for delivery of supplies or for performance of services, unless otherwise specified in the solicitation.
- (g) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays (calendar days).

Submission of Bids

- a. Bids and bid modifications shall be submitted in sealed envelopes or packages
 - (1) Addressed to the office specified in the solicitation; and
 - (2) Showing the time and date specified for receipt, the solicitation number, and the name and address of the bidder.
- b. All bids must be addressed and marked on the outermost envelope or packages.
- c. Offers submitted in response to solicitations shall be in terms of U.S. dollars and in English. Offers received in other than U.S. dollars or in English shall be rejected.

Responsiveness of bids

- a. To be considered for award, a bid must comply in all material respects with the request for bids. Such compliance enables bidders to stand on an equal footing and maintain the integrity of the sealed bidding system.
- b. Electronic bids shall not be considered unless permitted by or specifically stipulated by the solicitation.
- c. Facsimile bids shall not be considered.
- d. Bids should be filled out, executed, and submitted in accordance with the instructions in the

solicitation. If a bidder uses its own bid form or a letter to submit a bid, the bid will not be considered.

Submission, modification, and withdrawal of bids

a. Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Procurement Office address as designated in the request for bid (RFB) by the time specified in the RFB. They may use any transmission method authorized by the RFB (*i.e.*, regular mail, electronic, or facsimile). If no time is specified in the RFB, the time for receipt is 2:00p.m., local time, on the date that bids are due.

b. Any bid, modification, or withdrawal of a bid received at the Procurement Office after the exact time specified for receipt of bids is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that it was due to no fault of the bidder; and-

(1) There is acceptable evidence to establish that it was received at the Procurement Office and was under the Procurement Office control prior to the time set for receipt of bids.

2) A late receipt of modification of an otherwise successful bid, that makes its terms more favorable to the County, may be accepted if the Contracting Officer determines that it was due to no fault of the bidder.

c. Acceptable evidence to establish the time of receipt at the Procurement Office includes the time/date stamp of the office on the bid container, other documentary evidence of receipt maintained by the Procurement Office, or testimony or statements of Procurement personnel.

d. If an emergency or unanticipated event interrupts normal county processes so that bids cannot be received at the Procurement Office by the exact time specified in the RFB, and urgent County requirements preclude amendment of the bid opening date, the time specified for receipt of bids will be deemed to be extended to the date and time specified in an amendment to the solicitation.

e. Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. Upon withdrawal of an electronically transmitted bid, the data received shall not be part of the solicitation record. However, the withdrawal request will be maintained in the bid files.

f. The contracting officer must promptly notify any bidder if its bid, modification, or withdrawal was received late, and must inform the bidder whether its bid will be considered.

g. Late bids and modifications that are not considered must be held unopened, unless opened for identification, until after award and then retained with other unsuccessful bids. However, any bid bond or guarantee must be returned.

h. If available, the following must be included in the contract files for each late bid, modification, or withdrawal:

1) The date and hour of receipt.

2) A statement, with supporting rationale, regarding whether the bid was considered for award.

3) The envelope, wrapper, container, or other evidence of the date of receipt.

Failure to Respond to a Bid

Recipients of the solicitation not responding with a bid should not return the solicitation, unless it specifies otherwise. Instead, they should advise the Procurement Office by submitting the "No

Bid Response" letter or established electronic commerce methods, whether they want to receive future solicitations for similar requirements. If a Vendor does not submit a bid and does not notify the Procurement Office that future solicitations are desired, the Vendor's name may be removed from the applicable mailing list.

Opening of Bids and Award of Contract

This section contains procedures for the receipt, handling, opening, and disposition of bids including mistakes in bids, and subsequent award of contracts.

Receipt and Safeguarding of Bids

a. All bids (including modifications) received before the time set for the opening of bids shall be kept secure. Except as provided in paragraph (b) of this section, the bids shall not be opened or viewed, and shall remain in a locked bid box, a safe, or in a secured, restricted-access electronic bid box. If an invitation for bids is cancelled, bids shall be returned to the bidders. Necessary precautions shall be taken to ensure the security of the bid box or safe. Before bid opening, information concerning the identity and number of bids received shall be made available only to County employees. Such disclosure shall be only on a "need to know" basis. When bid samples are submitted, they shall be handled with sufficient care to prevent disclosure of characteristics before bid opening.

b. Envelopes marked as bids but not identifying the bidder or the solicitation may be opened solely for the purpose of identification, and then only by an employee assigned to Procurement or designated for this purpose. Sealed bid opened by mistake, the envelope shall be signed by the opener, whose position shall also be written thereon. This person who opened the sealed bid shall immediately write a memorandum for record with the following:

- (1) an explanation of the opening,
- (2) the date and time opened, and
- (3) the request for bids number, and sign the memorandum,
- (4) Place the original of the memorandum in the bid file,
- (5) Immediately reseal the envelope.

Opening of Bids

a. The Procurement Official responsible for the opening of the bid shall decide when the time set for opening bids has arrived and shall inform those present of that decision. The Procurement Official shall then:

- (1) publicly open all bids received before that time,
- (2) if practical, read the bids aloud to the persons present, and
- (3) have the bids recorded. The original of each bid shall be carefully safeguarded, particularly until the abstract of bids has been made and its accuracy verified.

b. Procedure in paragraph (a) of this section may be delegated to an assistant, but the Procurement Official remains fully responsible for the actions of the assistant.

c. Original bids shall not be allowed to leave the Procurement Office. The original bid may be examined by the public only under the immediate supervision of a Procurement official and under conditions that preclude possibility of a substitution, addition, deletion, or alteration in the bid.

Postponement of Openings

a. A bid opening may be postponed even after the time scheduled for bid opening when-

- (1) The Procurement Director has reason to believe that the bids have been delayed for

causes beyond their control and without their fault or negligence (e.g., flood, fire, accident, weather conditions, strikes, or the County equipment malfunction when bids are due); or

(2) Emergency or unanticipated events interrupt normal processes so that the conduct of bid opening as scheduled is impractical.

b. At the time of a determination to postpone a bid opening under paragraph (a) (1) of this section, an announcement of the determination shall be publicly posted. If practical before issuance of a formal amendment of the invitation, the determination shall be otherwise communicated to prospective bidders who are likely to attend the scheduled bid opening.

c. In the case of paragraph (a) (2) of this section, and when urgent requirements preclude amendment of the solicitation, the time specified for opening of bids will be deemed to be extended until an amendment is issued detailing the time of day, day, month, date and year. A memorandum should be made of the, events and added to the file explaining the circumstances of the postponement.

Recording of bids

a. Bid tabulations must be completed and certified as to its accuracy by the Procurement Official as soon after bid opening as practicable. Where bid items are too numerous to warrant complete recording of all bids, recording of the bids may be limited to item numbers and bid prices.

b. Bid tabulations shall be available for public inspection. The tabulation shall not contain information regarding failure to meet minimum standards of responsibility; apparent collusion of bidders, or other none required notations.

c. If a request for bids is cancelled before the time set for bid opening, this fact shall be recorded together with a statement of the number of bidders solicited and the number of bids received.

Cancellation of invitations after opening

a.

(1) Preservation of the integrity of the competitive bid system dictates that, after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation.

(2) Every effort shall be made to anticipate changes in a requirement before the date of opening and to notify all prospective bidders of any resulting modification or cancellation. This will permit bidders to change their bids and prevent unnecessary exposure of bid prices.

(3) As a general rule, after the opening of bids, an invitation should not be cancelled and resolicited due solely to increased requirements for the items being acquired. Award should be made on the initial invitation for bids and the additional quantity should be treated as a new acquisition.

b. When it is determined before award but after opening that the requirements of the specifications have not been met, the bid shall be cancelled.

c. Request for Bids may be cancelled and all bids rejected before award but after opening when, consistent with sub-paragraph (a) (1) of this section, and the Procurement Director determines in writing that-

- (1) Inadequate or ambiguous specifications were cited in the invitation;
- (2) Specifications have been revised;
- (3) The supplies or services being contracted for are no longer required;
- (4) The bid did not provide for consideration of all factors of cost to the County, such as cost of transporting property to bidders';
- (5) Bids received indicate a less expensive article than can satisfy the needs of the county, differing from that for which the bids were invited;
- (6) Only one bid is received and the Procurement Official cannot determine the reasonableness of the bid price;
- (7) Bids are collusive, or were submitted in bad faith;
- (8) No responsive bid has been received from a responsible bidder;
- (9) For other reasons, cancellation is clearly in the public's interest.

d. Should administrative difficulties be encountered after bid opening that may delay award beyond bidders' acceptance periods, the several lowest bidders whose bids have not expired (irrespective of the acceptance period specified in the bid) should be requested, before expiration of their bids, to extend in writing the bid acceptance period (with consent of sureties, if any) in order to avoid the need for re-soliciting.

e. Under some circumstances, completion of the acquisition after cancellation of the invitation for bids may be appropriate.

Rejection of Individual Bids

a. Any bid that fails to conform to the essential requirements of the request for bids shall be rejected.

b. Any bid that does not conform to the applicable specifications shall be rejected unless the solicitation authorized the submission of alternate bids and the supplies offered as alternates meet the requirements specified in the invitation.

c. Any bid that fails to conform to the delivery schedule or permissible alternates stated in the solicitation shall be rejected.

d. A bid shall be rejected when the bidder imposes conditions that would modify requirements of the RFB or limit the bidder's liability to the County, since to allow the bidder to impose such conditions would be prejudicial to other bidders. For example, bids shall be rejected in which the bidder-

- (1) Protects against future changes in conditions, such as increased costs, if total possible costs to the County cannot be determined;
- (2) Fails to state a price and indicates that price shall be "price in effect at time of delivery;"
- (3) States a price but qualifies it as being subject to "price in effect at time of delivery;"
- (4) When not authorized by the RFB, conditions or qualifies a bid by stipulating that it is to be considered only if, before date of award, the bidder receives (or does not receive) award under a separate solicitation;
- (5) Requires that the County is to determine that the bidder's product meets applicable specifications; or
- (6) Limits rights of the County under any contract clause.

e. A low bidder may be requested to delete objectionable conditions from a bid provided the conditions do not go to the substance, as distinguished from the form, of the bid, or work an injustice on other bidders. A condition goes to the substance of a bid where it affects price, quantity, quality, or delivery of the items offered.

f. Any bid may be rejected if the Procurement Official determines in writing that it is unreasonable as to price. Unreasonableness of price includes not only the total price of the bid,

g. but the prices for individual line items as well.

Any bid may be rejected if the prices for any line items or sub-line items are materially unbalanced.

h. Bids received from any person or concern that is suspended, debarred, proposed for debarment or declared ineligible as of the bid opening date shall be rejected unless a compelling reason determination is made

i. Low bids received from concerns determined to be not responsible shall be rejected.

j. When a bid guarantee is required and a bidder fails to furnish the guarantee in accordance with the requirements of the request for bids, the bid shall be rejected.

The originals of all rejected bids, and any written findings with respect to such rejections, shall be preserved with the papers relating to the acquisition.

l. After submitting a bid, if all of a bidder's assets or that part related to the bid is transferred during the period between the bid opening and the award, the transferee may not be able to take over the bid. Accordingly, the Procurement Official shall reject the bid unless the transfer is effected by merger, operation of law, or other means not barred by law.

Notice to bidders of rejection of all bids

When it is determined necessary to reject all bids, the Procurement Official shall notify each bidder that all bids have been rejected and shall state the reason for such action.

Minor informalities or irregularities in bids

A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a bid or variation of a bid from the exact requirements of the solicitation that can be corrected or waived without being prejudicial to other bidders. The defect or variation is immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the supplies or services being acquired. The Procurement Official either may give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive the deficiency, whichever is to the advantage of the best interest of the County.

Examples of minor informalities or irregularities include failure of a bidder to-

- (a) Return the number of copies of signed bids required by the invitation;
- (b) Furnish required information concerning the number of its employees;
- (c) Sign its bid, but only if-

- (1) The unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid (such as the submission of a bid guarantee or a letter signed by the bidder, with the bid, referring to and clearly identifying the bid itself); or
- (2) The firm submitting a bid has formally adopted or authorized, before the date set for opening of bids, the execution of documents by typewritten, printed, or stamped signature and submits evidence of such authorization and the bid carries such a signature;

- (d) Acknowledge receipt of an amendment to a request for bids, but only if-

- (1) The bid received clearly indicates that the bidder received the amendment, such as where the amendment added another item to the solicitation and the bidder submitted a bid on the item; or

(2) The amendment involves only a matter of form or has either no effect on price, quantity, or merely a negligible effect on quality, or delivery of the item bid.

Mistakes in Bids

After the opening of bids, the Procurement Official shall examine all bids for mistakes. In cases of apparent mistakes and in cases where the Procurement Official has reason to believe that a mistake may have been made, the Procurement Official shall request from the bidder a verification of the bid, calling attention to the suspected mistake.

Apparent Clerical Mistakes

(a) Clerical mistake may be corrected by the Procurement Official before award. The Procurement Official first shall obtain from the bidder a verification of the bid intended. Examples of apparent mistakes are-

- (1) Obvious misplacement of a decimal point;
- (2) Obviously incorrect discounts (for example. 1 percent 10 days, 2 percent 20 days, 5 percent 30 days);
- (3) Obvious reversal of the price f.o.b. destination and price f.o.b. origin; and
- (4) Obvious mistake in designation of unit.

Other mistakes disclosed before award

In order to minimize delays in contract awards, administrative determinations may be made in connection with mistakes in bids alleged after opening of bids and before award. The authority to permit correction of bids is limited to bids that, as submitted, are responsive to the solicitation and may not be used to permit correction of bids to make them responsive.

(a) If a bidder requests permission to correct a mistake and clear and convincing evidence establishes both the existence of the mistake and the bid actually intended, the Procurement Director may make a determination permitting the bidder to correct the mistake; provided, that if this correction would result in displacing one or more lower bids, such a determination shall not be made unless the existence of the mistake and the bid actually intended are ascertainable substantially from the solicitation and the bid itself.

(b) If-

- (1) A bidder requests permission to withdraw a bid rather than correct it;
- (2) The evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended; and
- (3) The bid, both as uncorrected and as corrected, is the lowest received; the agency Procurement Director may make a determination to correct the bid and not permit its withdrawal.

(c) If, under paragraph (a) or (b) of this subsection,

- (1) the evidence of a mistake is clear and convincing only as to the mistake but not as to the intended bid, or
- (2) the evidence reasonably supports the existence of a mistake but is not clear and convincing, and with the approval of the Procurement Director, may make a determination permitting the bidder to withdraw the bid.

(d) If the evidence does not warrant a determination under paragraph (a), (b), or (c) of this section, the Procurement Director may make a determination that the bid be neither withdrawn nor corrected.

(e) Each proposed determination must have the concurrence of the County Attorney.

(f) Suspected or alleged mistakes in bids shall be processed as follows. A mere statement by the Procurement Director that they are satisfied that an error was made is insufficient.

(1) The Procurement Director shall immediately request the bidder to verify the bid. Action taken to verify bids must be sufficient to reasonably assure the Procurement Director that the bid as confirmed is without error, or to elicit the allegation of a mistake by the bidder. To assure that the bidder will be put on notice of a mistake suspected by the Procurement Director the bidder should be advised as appropriate-

- (i) That its bid is so much lower than the other bids or the County's estimate as to indicate a possibility of error;
- (ii) Of important or unusual characteristics of the specifications;
- (iii) Of changes in requirements from previous purchases of a similar item; or (iv) Of any other information, proper for disclosure, that leads the Procurement Official to believe that there is a mistake in bid.

(2) If the bid is verified, the Procurement Director shall consider the bid as originally submitted. If the time for acceptance of bids is likely to expire before a decision can be made, the Procurement Director shall request all bidders whose bids may become eligible for award to extend the time for acceptance of their bids. If the bidder whose bid is believed erroneous does not (or cannot) grant an extension of time, the bid shall be considered as originally submitted. If the bidder alleges a mistake, the Procurement Director shall advise the bidder to make a written request to withdraw or modify the bid. The request must be supported by statements (sworn statements, if possible) and shall include all pertinent evidence such as the bidder's file copy of the bid, the original worksheets and other data used in preparing the bid, subcontractors' quotations, if any, published price lists, and any other evidence that establishes the existence of the error, the manner in which it occurred, and the bid actually intended.

(3) When the bidder furnishes evidence supporting an alleged mistake, the Procurement Official shall refer the case to the Procurement Director together with the following data:

- (i) A signed copy of the bid involved.
- (ii) A copy of the request for bids and any specifications or drawings relevant to the alleged mistake.
- (iii) An abstract or record of the bids received.
- (iv) The written request by the bidder to withdraw or modify the bid, together with the bidder's written statement and supporting evidence.
- (v) A written statement by the Procurement Official setting forth-

- (A) A description of the supplies or services involved;
- (B) The expiration date of the bid in question and of the other bids submitted;
- (C) Specific information as to how and when the mistake was alleged;
- (D) A summary of the evidence submitted by the bidder;
- (E) In the event only one bid was received, a quotation of the most recent contract price for the supplies or services involved or, in the absence of a recent comparable contract, the Procurement Official's estimate of a fair price for the supplies or services;
- (F) Any additional pertinent evidence; and
- (G) A recommendation that either the bid is considered for award in the form submitted, or the bidder be authorized to withdraw or modify the bid.

(4) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the Procurement Official shall consider the bid as submitted unless

- (i) the amount of the bid is so far out of line with the amounts of other bids

received, or with the amount determined by the Procurement Official to be reasonable, or
(ii) there are other indications of error so clear, as to reasonably justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders.

Mistakes after award

If a contractor's discovery and request for correction of a mistake in bid is not made until after the award, it shall be processed under the following:

(a) When a mistake in a contractor's bid is not discovered until after award, the mistake may be corrected by contract modification if correcting the mistake would be favorable to the County without changing the essential requirements of the specifications.

(b) In addition, as otherwise authorized by law, the Contracting Officer is authorized to make a determination-

- (1) To rescind a contract;
- (2) To reform a contract-

- (i) To delete the items involved in the mistake; or
- (ii) To increase the price if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original invitation for bids; or

(3) That no change shall be made in the contract as awarded, if the evidence does not warrant a determination under subparagraph (b) (1) or (2) of this section.

(c) Determinations under paragraph (b) (1) and (2) of this section may be made only on the basis of clear and convincing evidence that a mistake in bid was made. In addition, it must be clear that the mistake was-

- (1) Mutual; or
- (2) If unilaterally made by the contractor, so apparent as to have charged the Procurement Official with notice of the probability of the mistake.

(d) Each proposed determination shall be coordinated with the county attorney.

(e) Mistakes alleged or disclosed after award shall be processed as follows:

(1) The procurement official shall request the contractor to support the alleged mistake by submission of written statements and pertinent evidence, such as-

- (i) The contractor's file copy of the bid,
- (ii) The contractor's original worksheets and other data used in preparing the bid,
- (iii) Subcontractors' and suppliers' quotations, if any,
- (iv) Published price lists, and
- (v) Any other evidence that will serve to establish the mistake, the manner in which the mistake occurred, and the bid actually intended.

(2) The file concerning an alleged mistake shall contain the following:

- (i) All evidence furnished by the contractor in support of the alleged mistake.
- (ii) A signed statement by the procurement official-

- (A) Describing the supplies or services involved;
- (B) Specifying how and when the mistake was alleged or disclosed;
- (C) Summarizing the evidence submitted by the contractor and any additional evidence considered pertinent;
- (D) Quoting, in cases where only one bid was received, the most recent contract price for the supplies or services involved, or in the absence of a recent comparable contract, the procurement official's estimate of a fair price for the supplies or services and the basis for the estimate;
- (E) Setting forth the procurement official's opinion whether a bona fide mistake was made and whether the procurement official was, or should have been, on constructive notice of the mistake before the award, together with the reasons for, or data in support of, such opinion;
- (F) Setting forth the course of action with respect to the alleged mistake that the procurement official considers proper on the basis of the evidence, and if other than a change in contract price is recommended, the manner by which the supplies or services will otherwise be acquired; and
- (G) Disclosing the status of performance and payments under the contract, including contemplated performance and payments.

- (iii) A signed copy of the bid involved.
- (iv) A copy of the request for bids and any specifications or drawings relevant to the alleged mistake.
- (v) An abstract of written record of the bids received.
- (vi) A written request by the contractor to reform or rescind the contract, and copies of all other relevant correspondence between the procurement official and the contractor concerning the alleged mistake.
- (vii) A copy of the contract and any related change orders or supplemental agreements.

(f) Each procurement official shall include in the contract file a record of-

- (1) All determinations made;
- (2) The facts involved; and
- (3) The action taken in each case.

Award

(a) The procurement official shall make a contract award

- (1) by written or electronic notice,
- (2) within the time for acceptance specified in the bid or an extension, and
- (3) to that responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the County. Award shall not be made until all required approvals have been obtained and the award otherwise conforms with the solicitations requirements

(b) If less than three bids have been received, the procurement official shall examine the situation to ascertain the reasons for the small number of responses. Award shall be made notwithstanding the limited number of bids. However, the procurement official shall initiate, if appropriate, corrective action to increase competition in future solicitations for the same or similar items, and include a notation of such action in the records of the request for bids.

(c)

- (1) Award shall be made by mailing or otherwise furnishing a properly executed award document to the successful bidder.
- (2) When a notice of award is issued, it shall be followed by the formal award no less than ten days after.
- (3) When more than one award results from any single invitation for bids, separate award documents shall be suitably numbered and executed.
- (4) When an award is made to a bidder for less than all of the items that may be