

Bidding Procedures for Projects Funded by the Affordable Housing Trust Fund Program and Housing Revenue Bonds (Effective: May 2020)

THE CITY ENCOURAGES PROCUREMENT TRANSACTIONS TO BE CONDUCTED IN A MANNER THAT DEMONSTRATES REASONABLE DEVELOPMENT COSTS AS WELL AS PROVIDING FULL AND OPEN COMPETITION.

I. GENERAL CONTRACTOR AND SUBCONTRACTOR SELECTION METHODS:

- A. Sealed Bids:** The preferred method for general contractor selection is to publicly advertise for sealed bids at a pre-determined date and time. The general contractor bid solicitation must be publicized as further described in Section II below and must include clear and complete written specifications, and a standard bid response form. The selection of the successful bidder shall be made principally on the basis of price. A Lump Sum, Fixed Price or Stipulated Sum, contract shall be awarded to the lowest responsive responsible bidder.
- B. General Contractor Request for Qualifications (RFQ) with subsequent sealed bids for general contractor selection (previously the "Alternative Method"):** This method uses a publicly advertised RFQ to establish a short list of at least three (3) pre-qualified general contractors who will then compete for the general contracting work by submitting a sealed bid on a standard form based upon clear plans and specifications at a pre-determined public bid opening. With this method, the general contractor is not directly involved in creating the development plans or the project specification manual, and the general contractor may or may not have identified all of the subcontractors who may work on that particular project at the time the sealed bids are due.
- C. General Contractor Selection with subsequent bidding for subcontractor selection (previously, the "Second Alternative Method"):** This method, sometimes referred to as the "team approach," is generally intended for larger projects with a total development cost over approximately \$10 million where the general contractor is involved in estimating preliminary project pricing, drafting the development plans and project specification manual, and managing the subcontractor bidding process. The selected general contractor issues a public Request for Proposals (RFP) soliciting formal bids from qualified subcontractors based upon written plans and specifications. This subcontractor selection must comply with the bidding procedures described in Section II below.
- D. Cost Reasonableness Study:** In circumstances where City staff agree that a public selection of a general contractor or subcontractors creates an excessive burden on the project or generates insufficient competitive proposals or bids, the City may elect to complete a cost reasonableness study at its sole discretion and at the cost of the developer in lieu of requiring Method A., B., or C. above. This method includes the following procedures and documentation:

 - 1. **Declaratory Letter to CPED:** Developer provides CPED with a letter and supporting documentation demonstrating why a public selection of a general contractor or subcontractors created an excessive burden on the project, generated insufficient competitive proposals or bids, or another reasonable explanation describing why none of the Methods A., B., or C. was appropriate for the project.
 - 2. **Plans and Specifications Provided to CPED:** The developer furnishes CPED with the complete construction plans and written project specifications manual.

3. Consultant Selection: Using authority granted to CPED in the signed Recitals, Acknowledgement, and Consent Form from the RFP, CPED selects at its sole discretion at least one qualified consultant such as one or more architects or general contractors to review the construction plans and project specifications to estimate project costs and compare those costs to at least one other similar project.

II. ADDITIONAL POLICIES AND PROCEDURES

A. Advertisement Publication:

1. At a minimum, all advertisements must be published in Finance and Commerce twice for a minimum of one (1) week each. Direct mail invitations or solicitations are permitted as a supplement to the minimum required public advertisement.
2. Bid packages with construction plans and specifications used for general contractor or subcontractor selection must be made available concurrently with the public advertisement to applicable labor union trade organizations or regional council offices.
3. All solicitations must be reviewed by CPED staff prior to commencement of advertising.
4. Affidavits of publication must be provided to CPED which describes the specific advertisement that was published and the dates of publication.

B. Architectural Services: CPED recommends using the Minnesota Housing Finance Agency Architect's Guide (the April 2014 version is posted here: http://www.mnhousing.gov/idc/groups/multifamily/documents/webcontent/mhfa_008062.pdf).

C. Sealed Bid or Proposal Opening and Documentation to CPED: Project bid openings must be public and must be attended by CPED staff. Upon the completion of the opening of the bids or advertisement responses, the following must be promptly submitted to CPED staff:

1. Copy of the sign-in sheet of all persons in attendance at the opening;
2. Copies of all bids or responses; and
3. Tally sheet listing all bidders or respondents, proposers, addendums received, responsive or non-responsive bids or responses, reason, and summaries of all of the pertinent financial information in the bids or responses.

D. Change Orders: CPED endeavors to minimize change orders where possible.

E. Contracting Requirements:

1. Please see the AHTF Contracting Requirements (Attachment 4) for a summary of the applicable SUBP, affirmative action, Davis Bacon, CPED Apprenticeship, and related rules.
2. The selected general contractor shall provide on CPED's Sworn Construction Statement form and Civil Rights Pre-Construction Booklet the names of all parties having contracts or subcontracts for specific portions of the work on said property and building or material entering into the construction and amounts of each.

F. Competitive Bidding is Preferred: At least three (3) competitive bids, proposals or responses are preferred when a competitive process is used to select either the general contractor or subcontractors. When section 3 applies to a project and federal funds are \$200,000 or greater the rules on page 17 and 18 of the link below apply to section 3 bidders.
https://www.hud.gov/sites/documents/DOC_12047.PDF

G. Design-Build Prohibited: The design-build approach where the design phase of the project overlaps with the construction phase is a prohibited procurement method even when Method D is used. This excludes fire protection.

ATTACHMENT 5
BIDDING PROCEDURES

- H. Faxed or E-Mailed Bids Prohibited:** Faxed or e-mailed bids or responses are not permitted.
- I. General Contractor Self-Performing Construction Work:** The selected general contractor may self-perform work on the project only if the general contractor first announces as a disclosure their intention in its initial proposal that it intends to pursue self-performing some of the construction, and submits a separate sealed bid (or bids) on the subcontract work and if the general contractor and project owner verify in writing to the City prior to the posting of the advertisement for the subcontractor sealed bids that the general contractor has not developed or drafted specifications, requirements, statements of work, invitations for bids and/or requests for proposals.
- J. Procurement for Professional Services:** Procurement for professional services including architectural, engineering, and legal: CPED encourages but does not require a competitive process to be used to select professional consultants for projects.
- K. Project Manuals and Specifications Standard Format:** All project manuals or specification books shall be organized into Divisions and Sections using the 16 –division format and Construction Specification Institute (CSI) Master Format numbering system.
- L. Registered and Independent Professional Consultants:** All professional services shall be performed by professionals registered in Minnesota in their respective fields and independent of Developer and Contractor(s) engaged in the development unless the scope of work is limited to minor rehabilitation and simply replacing worn components/equipment with similar new components/equipment.
- M. Retainage:** Unless otherwise agreed to by the City, the General Contractor must include a retainage clause requiring a 5% holdback of hard construction with such holdback released upon completion of construction.
- N. Standard Forms Required for Bidding and Draws:**
1. A standard bid or proposal response form must be provided in the bid package to be completed by the respondents.
 2. Request for payment shall be submitted on AIA Document G702 Application and Certificate for Payment, and AIA Document G703 Continuation Sheet.