

EAST BATON ROUGE  
REDEVELOPMENT AUTHORITY

**ADMINISTRATIVE POLICY  
PROCUREMENT CONTRACTING AND DBE POLICY FOR  
FEDERALLY FUNDED PROJECTS**

February 5, 2013

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## ADMINISTRATIVE POLICY

### PROCUREMENT CONTRACTING AND DBE POLICY FOR FEDERALLY FUNDED PROJECTS

The President/Chief Executive Officer of the East Baton Rouge Redevelopment Authority hereby enacts the following resolution setting forth the RDA's procurement and contracting policies for federally funded projects of the RDA.

**WHEREAS**, the RDA has been, and wishes to continue to be, a qualified Sub-recipient eligible to receive funding under Federal Programs; and

**WHEREAS**, the RDA, in applying for and administering FEDERALLY FUNDED programs, must comply with requirements unique to the FEDERALLY FUNDED program consistent with federal law and regulations and must comply with all applicable requirements of the Louisiana Procurement Code as well as other pertinent requirements of state law; and

**WHEREAS**, due to the unique nature of the resulting set of procurement requirements for FEDERALLY FUNDED projects, the RDA Administration deems it most appropriate and efficient to adopt a FEDERALLY FUNDED Programs procurement policy separate from its general procurement policy;

**NOW, THEREFORE, BE IT RESOLVED**, that the President/CEO adopts the following as its FEDERALLY FUNDED Programs Procurement Contracting DBE Policy:

#### A. GENERAL PROVISIONS

1. Incorporation by Reference

- a. All applicable provisions of the Louisiana Procurement Code, are hereby incorporated into this policy by this reference.

2. Affirmative Action

The purchasing officer or agent shall take affirmative steps to assure that small and minority firms and women's businesses are solicited wherever they are potential qualified sources. The purchasing officer or agent shall also consider the feasibility of dividing total requirements into smaller tasks or quantities, or setting delivery schedules in such a way as to facilitate participation by small and minority firms and women's businesses, when permitted.

3. Basis of Payment

The basis of payment (fixed price, unit price, hourly rate, etc.) shall be appropriate to the specific procurement and spelled out in any invitation for bids or request for proposals and must be specified in the final contract between the RDA and a contracting party. Cost plus percentage of cost contracts are specifically prohibited where Federal funds are to be used.

4. Necessity for a Written Contract

Whatever procurement method is used, a written contract signed by the RDA and the Contractor is necessary and must be in place before the RDA is under an obligation to pay for work done.

**B. SMALL PURCHASES**

1. When the Small Purchase Procedure Can be Used.

The small purchase procedure can be used to procure services, construction or items of tangible personal property having a value of not more than \$20,000 not including any applicable gross receipts tax, and may also be used to procure professional services (except those of landscape architects and surveyors which have a value of not more than \$10,000) having a value of not more than \$50,000 not including any applicable gross receipts tax. Projects shall not be artificially divided in order to allow the small purchase procedure to be used.

2. Obtaining Quotes.

To use the small purchase procedure for contracts to be funded by Federal monies, the RDA official responsible for the procurement must obtain price or rate quotations by phone or in writing from a minimum of three sources and document the businesses contacted and the prices quoted. In order to obtain comparable price quotations, the RDA official responsible for the procurement should describe the type of service, construction, or goods that the RDA seeks to obtain, as well as the scope of work and proposed basis of payment, in reasonable detail.

3. Basis of Selection.

The RDA shall select the business whose services, construction or goods are most advantageous to the RDA, including but not limited to cost.

4. Necessity for a Written Contract

Whatever procurement method is used, a written contract signed by the RDA and the Contractor is necessary and must be in place before the RDA is under an obligation to pay for work done.

5. Affirmative Action

The purchasing officer or agent shall take affirmative steps to assure that small and minority firms and women's businesses are solicited wherever they are potential qualified sources. The purchasing officer or agent shall also consider the feasibility of dividing total requirements into smaller tasks or quantities, or setting delivery schedules in such a way as to facilitate participation by small and minority firms and women's businesses, when permitted.

6. Basis of Payment

The basis of payment (fixed price, unit price, hourly rate, etc.) shall be appropriate to the specific procurement and spelled out in any invitation for bids or request for proposals and must be specified in the final contract between the RDA and a contracting party. Cost

plus percentage of cost contracts are specifically prohibited where FEDERAL funds are to be used.

## **C. COMPETITIVE SEALED BIDS**

### **1. Applicability**

The Procurement Policy requires competitive sealed bids where other methods of procurement (such as small purchases and competitive sealed proposals) do not apply. This procedure is used when detailed specifications can be prepared for the goods or services to be procured and the primary basis for award is cost.

### **2. Notice.**

An invitation for bids procedure is initiated by the RDA publishing an Invitation for Bids or a notice thereof at least 10 calendar days before bids are to be opened in at least one newspaper of general circulation in the Baton Rouge area and sending copies to businesses that have indicated in writing their interest in bidding for the type of service, construction, or goods involved. The invitation for bids should state that Federal funding is involved.

### **3. Selection Criteria.**

All criteria to be used for selection must be stated in the Invitation for Bids. Specifications should be clear and detailed.

### **4. Opening of Bids; Award**

Bids shall be opened publicly, recorded, and the award made to the lowest responsible bidder. The term "responsible bidder" is defined as, "a bidder who submits a responsive bid and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, construction or items of tangible personal property described in the invitation for bids." A "responsive bid" is "a bid which conforms in all material respects to the requirements set forth in the invitation for bids [including] price, quality, quantity or delivery requirements." Therefore, the lowest bidder may or may not be the lowest responsible bidder.

### **5. Contract.**

The RDA must enter into a written contract with the firm selected in order to proceed with the production and delivery of the services, construction or goods solicited. The contract must formalize, among other things, the term of the contract, the scope of work, delivery schedule, and compensation.

### **6. Cancellation; rejection.**

An invitation for bids may be cancelled or any or all bids rejected when it is in the best interests of the RDA. Any such determination must be documented in writing with the business reasons for the cancellation or rejection stated.

## **D. COMPETITIVE SEALED PROPOSALS**

### **1. Applicability**

Competitive sealed proposals are used when cost is not the only factor in the selection. This includes most professional services, but services of architects, engineers, landscape architects and surveyors are required to be selected using the special Competitive Sealed Qualifications-Based Proposal procedure set forth in Section F, below. Competitive sealed proposals are not to be used for construction services but may be used to select a consultant to provide local Federal administrative or housing rehabilitation services, appraisals or expert testimony.

2. Notice

Requirements for notice and publication of a request for proposals or a notice thereof are the same as requirements for notice and publication of an invitation for bids or a notice thereof. See D-2 above.

3. Request for Proposals (RFP)

The RFP should clearly define the services or goods to be procured and must include a scope of work.

The RFP must state the evaluation criteria to be used and their relative weight. The criteria may include cost and should also include other factors.

The RFP must state the name and telephone number of the RDA contact person and the number of copies of a proposal required.

The RFP should state that the project is funded by FEDERAL money and subject to applicable FEDERAL requirements.

4. Evaluation of Proposals; Negotiations

The RDA should establish an evaluation committee to review and rank proposals in accordance with the criteria stated in the **RFP**. Reviews and rankings should be in writing. Offerors submitting proposals may be given an opportunity for negotiation and revision of their proposals prior to award for the purpose of the RDA obtaining best and final offers.

5. Award

The award shall be made to the responsible offeror whose proposal is the most advantageous to the RDA, taking into consideration the evaluation factors set forth in the **RFP**, including but not limited to price.

6. Contract.

The RDA must enter into a written contract with the firm selected in order to proceed with the production and delivery of the services or goods solicited. The contract must formalize, among other things, the term of the contract, the scope of work, delivery schedule, and compensation.

7. Cancellation; rejection.

A request for proposals may be cancelled or any or all proposals rejected when doing so is in the best interests of the RDA. Any such determination must be documented in writing with the business reasons for the cancellation or rejection stated.

**E. COMPETITIVE SEALED QUALIFICATIONS-BASED PROPOSALS**

1. Applicability

Professional services of architects or engineers in excess of \$50,000 (not including taxes) and professional services of landscape architects and surveyors in excess of \$10,000 (not including taxes).

## 2. Procedure

The procedures for competitive sealed qualifications-based proposals are the same as the procedures for requests for proposals (Section E above) except for the following:

- a. Price is excluded as an evaluation factor in the request for proposals and in selecting the most qualified offeror.
- b. The following must be included in the **RFP** as evaluation factors: (1) specialized design and technical competence; (2) capacity and capability of the business; (3) past record of performance on contracts with government agencies or private industry; (4) proximity to or familiarity with the area in which the project is located; (5) the volume of work previously done for the RDA that is not 75% complete.
- c. Once the most qualified offeror has been selected (on the basis of factors other than cost), the RDA shall obtain from that firm its price and cost data.
- d. After obtaining the most qualified firm's price and cost data, the RDA and the firm shall negotiate a fee for the services to be provided.
- e. If a fair and reasonable fee cannot be agreed upon, then the RDA shall commence negotiations with the second most qualified firm, then, if those are unsuccessful, with the third most qualified, and so on.

## **F. ADMINISTRATIVE OR REHABILITATION CONSULTANT**

### 1. Applicability

If the RDA requires the use of a consultant to assist with the administration of the FEDERAL program or the assistance of a professional rehabilitation consultant, the RDA must procure such services through the Competitive Sealed Proposals (RFP) process described in Section E, above.

### 2. Contract Terms.

An administrative contract must contain the following provisions:

- a. Effective and termination dates.
- b. Names and addresses of parties and liaison persons.
- c. Authority of RDA to enter contract and source of funds.
- d. Conditions under which the contract may be terminated and remedies for breach.
- e. Detailed scope of work.
- f. Time of performance and completion including milestones if applicable.
- g. Description of materials or services to be provided by both parties.
- h. Method of compensation including fee, payment schedule and maximum amount payable. Payment cannot be made in advance of work.

i. State and federal standard provisions: Executive Order 11246 clause; Title VII clause; access to records statement; conflict of interest clause; Section 3 statement pertaining to Housing and Urban Development Act of 1968; Section 109 clause pertaining to the Housing and Community Development Act of 1974; Rehabilitation Act of 1974, Section 504 clause, concerning handicapped persons; Age Discrimination Act of 1975 clause.

#### **G. MAINTAIN PROCUREMENT FILES.**

Procurement files for all FEDERAL contracts must be maintained and must, at a minimum contain the following documents showing, among other things, that the procurement was open, fair and competitive: Please see Attachment "A".

#### **H. RETENTION OF RECORDS.**

The RDA shall keep such records as will fully disclose the amount and disposition of the total funds from all sources budgeted for the Grant Agreement period, and the purpose of undertaking for which such funds were used, the amount and nature of all contributions from other sources, and such other records as the Local Government Division shall prescribe. Such records shall be preserved for a period of not less than seven (7) years following project close-out.

#### **I. CODE OF CONDUCT.**

Per 24 CFR 85.36 and 84.42 :

- No employee, officer or agent of the Grantee/ Recipient/ Subrecipient or sub Grantee/ Recipient/ Subrecipient shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest would be involved.
- Officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements
- Penalties, sanctions, or other disciplinary actions for violations are included.

This Code of Conduct is consistent with the Louisiana Code of Governmental Ethics (Louisiana Revised Statutes 42:1101)

#### **J. DISADVANTAGED BUSINESS ENTERPRISE CONTRACTING.**

RDA shall take affirmative steps to assure that small and minority firms, women's business enterprises, and labor surplus firms are solicited whenever they are potential qualified sources. The RDA shall also consider the feasibility of dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority firms, women's business enterprises, and labor surplus firms. Where permitted by

regulations, delivery schedules will be developed which will include participation by such businesses.

The RDA shall assist the prime contractor whenever possible by providing copies of lists which identify qualified small and minority firms, women's business enterprises, and labor surplus area firms. The RDA will maintain a current list of certified DBE's from both the City-Parish and unified state sources.