

STATE OF ALABAMA)
COUNTY BLOUNT)
TOWN OF SNEAD)

ORDINANCE 11-04

POLICIES ON PURCHASING AND TO ESTABLISH A CODE OF ETHICS FOR C.D.B.G.
PROJECTS IN THE TOWN OF SNEAD

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SNEAD, ALABAMA,
AS FOLLOWS:**

WHEREAS, the Town of Snead, acting by and through its Mayor and Town Council had determined that it was in the town's best interest to adopt a policy to govern purchasing and establish efficient and economical procurement and selection procedures for obtaining labor, materials and service Resolution 2008-03; and

WHEREAS, the Town of Snead, acting by and through its Mayor and Town Council have determined that due to the changes in the Alabama Ethics Law, amendments to the original Resolution are necessary; and

NOW, THEREFORE BE IT ORDAINED, by the Snead Town Council of the Town of Snead, Alabama as follows:

A. PROCUREMENT AND SELECTION PROCEDURES

The Town of Snead will follow the procurement methods described below and will ensure that all contracts will be in writing, include the appropriate state, federal and local clauses, and that all contracts will be authorized by the Snead Town Council. Further, the Town of Snead will ensure that the procurement of labor, services or materials will be conducted in accordance with these local written procedures that conform to 24 CFR 85.36 (Common Rule), Title 41 Code of Alabama (Bid Law) and Title 39, Code of Alabama (Public Works Law). All procurement follows one of the following methods:

B. PURPOSE

To establish efficient and economical procurement and selection procedures for obtaining labor, materials and services for all C.D.B.G. Projects implemented in the Town of Snead.

Sec.1 Scope

All contract labor, materials, supplies and services purchased in whole or in part by the Town of Snead shall be acquired in accordance with these procedures.

Sec. 2 Applicable Legislation & References

State of Alabama Competitive Bid Law

State of Alabama Public Works Law

State of Alabama Code of Ethics

Uniform Administrative Requirements (Common Rule) as adopted by A.D.E.C.A.

Sec 3 Selection Procedures

All Labor, materials and services that are acquired must be clearly documented to evidence that:

- (1) Competitive solicitations of offers contain a clear and accurate description of the materials, product or service to be procured.
- (2) All general and special bidder requirements relating to the materials, product or service were clearly stated in the solicitation.
- (3) The Alabama Small Business Procurement Office and Alabama Office of Minority Business Enterprises is notified in writing within thirty (30) days of each bid opening to encourage the participation of small and minority owned businesses in all Town of Projects.
- (4) All contractors included on ALDOT DBE Certified Listing in the particular trade being bid will be notified within thirty (30) days of each bid opening to encourage the participation of small disadvantage contractors in all Town projects.
- (5) Bid awards were made only to responsible contractors that possess the ability to ability to perform successfully under the terms and conditions of the purchase agreement.

Sec 4 Method of Procurement

All labor, materials and services that are procured must conform to one of the following methods:

1. Small Purchase

- a. See State Bid Law Title 41, Code of Alabama Common Rule (24CFR85.36),
 1. Price or rate quotations for purchases or contracts with an aggregate cost Fifteen Thousand (\$15,000.00) or less must be obtained from at least three (3) qualified sources. (No purchase or contract involving an amount in excess of Fifteen Thousand (\$15,000.00) shall be divided into parts involving amounts of Fifteen Thousand (\$15,000.00) or less for the purpose of avoiding the requirements of the Bid Law.) File documentation is required.
- b. See Public Works Law Title 39, Code of Alabama and Common Rule (24CFR85.36),
 1. Price or rate quotations for professional services with an aggregate cost of One Hundred Thousand (\$100,000.00) or less must be obtained from at least three (3) qualified sources. File documentation and contract for professional services are required.
 2. Contract for public works involving Fifty Thousand (\$50,000.00) or less may be let without advertising or sealed bids. Price or rate quotations must be obtained from at least three (3) sources. (No public work involving a sum in excess of Fifty Thousand (\$50,000.00) shall be split into parts involving sums of Fifty Thousand (\$50,000.00) or less for the purposes of evading the Public Works Law.) File documentation is required.

2. Sealed Bids

- a. See State Bid Law; Title 41, Code of Alabama Common Rule (24CFR85.36),
 - 1. All purchases in excess of Fifteen Thousand (\$15,000.00) shall be advertised by posting notice thereof on a bulletin board maintained outside the purchasing office and in any other manner and for any length of time as may be determined. Sealed bids shall also be solicited by sending notice by mail or other electronic means to all persons, firms or corporations who have filed a request in writing that they be listed for solicitation on bids for the particular items that are set forth in the request. All bids shall be sealed when received and shall be opened in public at the hour stated in the notice.
 - 2. All original bids together with all documents pertaining to the award of the contract shall be retained in accordance with a retention period of at least seven years established by the Local Government Records Commission and shall be open to public inspection.
- b. See Public Works Law; (Title 39, Code of Alabama),
 - 1. Definition of Public Works: The construction, repair, renovation or maintenance of public buildings, structures, sewers, waterworks, roads, bridges, docks, underpasses and viaducts as well as any other improvement to be constructed, repaired renovated or maintained on public property and to be paid, in whole or in part, with public funds or with financing to be retired with public funds in the form of lease payments or otherwise.
 - 2. Before entering into any contract for a public works involving an amount in excess of Fifty Thousand (\$50,000.00), the awarding authority shall advertise for sealed bids. If the awarding authority is the state or county, or an instrumentality thereof, it shall advertise for sealed bids at least once each week for three consecutive weeks in a newspaper of general circulation in the county or counties in which the improvement or some part thereof, is to be made. If the awarding authority is a municipality, or an instrumentality thereof, it shall advertise for sealed bids at least once in a newspaper of general circulation published in the municipality where the awarding authority is located. If no newspaper is published in the municipality, the awarding authority shall advertise by posting notice thereof on a bulletin board maintained outside the purchasing office and in any manner and for the length of time as may be determined. In addition to bulletin board notice, sealed bids shall also be solicited by sending notice by mail to all persons who have filed a request in writing with the official designated by the awarding authority that they be listed for solicitation on bids for the public works contracts indicated in the request. For all public works contracts involving an estimated amount in excess of Five Hundred Thousand (\$500,000.00), awarding authorities shall also advertise for sealed bids at least once in three newspapers of general circulation throughout the state.
 - 3. The advertisements shall briefly describe the improvement, state that plans and specifications for the improvement are on file for examination in a designed office of the awarding authority, state the procedure for obtaining plans and specifications, state the time and place in which bids shall be received and opened, and identify whether prequalification is required and where all written prequalification information is available for review. All bids shall be opened publicly at the advertised time and place.

3. Competitive Negotiations

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- a. See Common Rule (24CFR85.36)
- b. Requests for proposals will be publicized and identify all evaluation factors and their relative importance.
- c. Proposals will be solicited from an adequate number of qualified sources.
- d. Grantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees.
- e. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
- f. Grantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

4. Noncompetitive Negotiations

Procurement by non competitive proposals or "sole source" is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies: the item is available only from a single source; the public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; the awarding agency authorizes noncompetitive proposals; and after solicitation of a number of sources, competition is determined inadequate.

- a. Proper documentation that one or more of the above circumstances existed.
- b. There is no conflict of interest by the parties involved.
- c. Cost analysis, i.e. verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

5. Price/Cost Analysis

Grantees must perform a cost or price analysis in connection with every procurement action including

contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals.

- a. A cost analysis must be performed when the bidder is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts.

- b. 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.
- c. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.
- d. Grantees will negotiate profit as a separate element of the price of each contract in which there is no price competition and in all cases where cost analysis is performed.
- e. 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.
- f. 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 cost principles (see Sec. 85.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.
- g. The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

Sec.5 Contacts

All professional services shall be subject to the requirements of an approved professional services contract and shall be authorized by the Snead Town Council. All construction services shall be procured in accordance with the Competitive Bid Law and the use of a Standard Bid Package setting forth applicable State and Federal Rules and Regulations. All construction activities must be contractual and approved by the Snead Town Council.

Sec.6 Responsible Personnel.

The Mayor of the Town of Snead shall appoint a purchasing coordinator to implement the procurement and selection procedures. The Purchasing Coordinator's duties and responsibilities will consist of:

- a. The overall coordination of the procurement of labor, materials and services to ensure legal and programmatic compliance.
- b. Sufficient and clear documentation of all purchase transactions.
- c. Review of all purchase requests to avoid duplicative and ineligible purchases.
- d. Review of all purchase requests to avoid division of partial purchases and promote minority enterprise development.
- e. Determine the most economical approach to the procurement of labor, materials, or services and classify each purchase accordingly.
- f. As appropriate, the Purchasing Coordinator will assist the Community Development Coordinator in the financial and contractual administration of the program to ensure that payments for goods and/or services are issued only when:
 - 1. The expense is an eligible item and is appropriately budgeted in the approved CDBG budget.
 - 2. Sufficient and detailed source documentation is available.

3. The invoice has been approved for payment as required.
4. Contractors, Subcontractors, and vendors have preformed according to the terms and conditions of the approved agreement.

For purposes of the procedures set forth above, the Purchasing Coordinator will be the Town Clerk.

C. CODE OF ETHICS AND STANDARD OF CONDUCT

The Town of Snead will maintain a written code of standards of conduct governing the performance of their employees engaged in the awarding and administration of contracts. No employee, officer or agent of the Town shall participate in selection or in the awarding or administration of a contract supported by federal funds if a conflict of interest real or apparent would be involved.

It is essential to the proper government and administration of the Town of Snead that the elected officials and employees be, and give the appearance of being, independent and impartial; that public service not be used for private gain; and that there be public confidence in the integrity of the Snead Town Council. Because the attainment of one or more of these ends is impaired whenever there exists in fact, or appears to exist, a conflict between the private interest and public responsibilities of the Snead Town Officials and employees, the public interest requires that the Town Council protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of persons herein above named in situations where a conflict may exist. Accordingly, the standards hereinafter set forth must be so interpreted and understood as not unreasonable to frustrate or impede the desire or inclination to seek and serve in public office by those persons best qualified to serve. To that end the persons herein above named should not, except as otherwise provided by law, be denied the opportunity available to all other citizens to acquire and maintain private, economic and other interests except where a conflict of interest situation would necessarily result. The policy standards of ethical conduct that shall be applicable to the persons herein above named in the discharge of their official duties; to implement the objective of protecting the integrity of the Town and to prescribe only such essential restrictions against conflict of interest as will not impose unnecessary barriers against public service.

No employee, officer, or agent of the Town of Snead shall participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved (such a conflict would arise when: the employee, officer, or agent; or any member of his immediate family, his partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest) in the firm selected for award.

The officers, employees, or agents of the Town of Snead will neither solicit no accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements. The Town of Snead may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

To the extent permitted by the state (Title 36, Chapter 25; Code of Alabama) or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other

disciplinary actions for violations of such standards by the officers, employees, or agents, of the Town of Snead, or by contractors or their agents.

D. AUTHORITY

No portion of the Purchasing Policies and Procedures shall be construed to restrict the responsibility and authority of the elected officials of the Town of Snead in the development, implementation and execution of any Community Development Block Grant program.

IT IS HEREBY IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SNEAD, ALABAMA, that this ordinance shall become effective immediately on its passage and publication as required by law. All Ordinances or parts of Ordinances in conflict with this ordinance are hereby repealed.

ADOPTED THIS THE 12th DAY of DECEMBER, 2011,


Tim Kent, Mayor


James Campbell, Councilmember

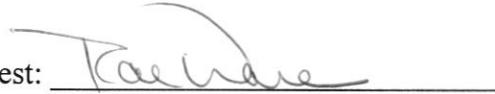

M. Jack Freeman, Councilmember


Phillip McHan, Councilmember


Curtis Painter, Councilmember

Charles Sanders, Councilmember

I, the undersigned Town Clerk for the Town of Snead, Alabama, do hereby certify that the above and foregoing Ordinance was approved and adopted by the Town Council of the Town of Snead, Alabama on the 12th day December, 2011.

Attest: 
Rae Ware, Town Clerk

SEAL