

Addison County Regional Planning Commission

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PROCUREMENT PROCEDURES

Purpose and Authority

This document constitutes the Addison County Regional Planning Commission's ("ACRPC") Procurement procedures. It describes the process by which ACRPC will execute capital purchases and secure contractor services for tasks that it chooses to fulfill by sub-contract. ACRPC developed these policies and procedures to comply with the requirements of 2 Code of Federal Regulations (CFR) §200, entitled "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards" and Vermont Agency of Administration Bulletin 3.5, "Procurement and Contracting Procedures". ACRPC staff and all selected contractors shall comply with these procedures and with all relevant federal, state, municipal laws, bylaws, ordinances and regulations.

General Procurement

- ACRPC will administer its contracts to ensure that contractors perform in accordance with the terms, conditions, and specifications of those contracts or purchase orders. *2 CFR 200.318(b)*
- ACRPC will review proposed procurements to avoid purchase of unnecessary or duplicative items. ACRPC will consider consolidating or breaking out procurements to obtain a more economical purchase and to increase free and open competition. Where appropriate, ACRPC will analyze lease versus purchase alternatives, and any other appropriate factors to determine the most economical approach. *2 CFR 200.318(d)*
- To foster greater economy and efficiency, ACRPC will endeavor to enter into State and local intergovernmental agreements for procurement or use of common goods and services. *2 CFR 200.318(e)*
- To reduce project costs, ACRPC will endeavor to use Federal and state excess and surplus property in lieu of purchasing new equipment and property. *2 CFR 200.318(f)*
- For construction contracts large enough to require a Standard Bid Process, ACRPC shall encourage applicants to use value engineering to ensure essential functions are provided at the most competitive price. ACRPC may also promote value engineering in smaller procurements that could benefit from the value engineering provisions. *2 CFR 200.318(g)*



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- ACRPC will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. ACRPC will consider such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. *2 CFR 200.318(h)*
- ACRPC maintains records sufficient to detail the significant history of a procurement consistent with our records retention policy. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. Federal and state agencies will be provided contract records upon request. *2 CFR 200.318(i), 2 CFR 200.324(a)*
- ACRPC will be solely responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve ACRPC of any contractual responsibilities under its contracts. Federal or State awarding agencies will not substitute its judgment for that of ACRPC unless the matter is primarily a Federal or State concern. *2 CFR 200.318(k)*
- ACRPC will resolve disputes relating to contracts awarded pursuant to its established bid protest procedures. ACRPC will disclose information regarding all instances of bid protests to any funding agencies. *See “Bid Protest Procedure” on page 9.*
- ACRPC will select, to the extent practicable and economically feasible, products and services that conserve natural resources, protect the environment, are energy efficient and use recovered materials in accordance with *2 CFR 200.323.*
- ACRPC will provide termination provisions in all contracts and agreements over \$10,000 and contracts for projects over the Simplified Acquisition Threshold (\$150,000) will address administrative, contractual, or legal remedies when contractors violate or breach contract terms and provide for sanctions and penalties as appropriate. *2 CFR 200 Appendix II(A) and (B)*
- ACRPC will not enter into contracts with parties that have been debarred, suspended, or excluded from Federal or State assistance programs. *2 CFR 200 Appendix II(H)*
- ACRPC will analyze cost or price in connection with every procurement action, including contract modifications, in excess of the Simplified Acquisition Threshold. The scope of the analysis shall depend upon the facts surrounding the procurement. At a minimum, ACRPC will create independent estimates before receiving bids or proposals. Cost analysis includes the evaluation of each element of cost to determine total cost reasonableness, allocability and allowability. *2 CFR 200.324*

- ACRPC will negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit consideration will be given to the complexity of the work performed and industry profit rates in the surrounding geographic area for similar work. *2 CFR 200.323*

Procurement Code of Conduct

ACRPC maintains the following written code of standards of conduct governing the performance of their employees, officers, Board Members and all others engaged in the selection, award and administration of contracts. *2 CFR 200.318(c)(1)*

- Per 2 CFR §200.31(c)(1), no employee, officer, or agent of the ACRPC or its sub-grantees shall participate in the selection, award or administration of a contract supported by State or Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when (1) the employee, officer, or agent, (2) any member of his or her immediate family, (3) his or her partner, or (4) an organization which employs or is about to employ any of (1) through (3) above, have a financial or other interest in the firm selected for the award. *2 CFR 200.318(c)(1)*
- Employees of ACRPC, including the Executive Director, who violates this conflict of interest policy shall be subject to disciplinary procedures pursuant to chapter 14 of ACRPC's Personnel Policy. Commission members who have a conflict of interest on a particular matter shall recuse themselves from the matter under consideration or shall be recused from the deliberation by the Full Commission pursuant to Article 13 of ACRPC's Bylaws.
- Officers, employees, and agents of both the ACRPC and ACRPC's sub-grantees will neither solicit nor accept gratuities, favors, or items of value (excluding calendars, pens, and other nominal items) from contractors, potential contractors, or parties to sub-agreements. *2 CFR 200.318(c)(1)*
- A staff person who has an outside activity or interest which would have a potential for being a conflict of interest with his or her duties at the ACRPC will disclose that activity or interest to the Executive Director. If the Executive Director determines that the outside activity or interest adversely affects or otherwise impairs the staff person's ability to perform his or her official duties, the staff person shall refrain from the outside activity during the term of his or her employment by the ACRPC.
- Should the Executive Director have an outside activity or interest which would have a potential for being a conflict of interest with his or her duties at the ACRPC, he or she will disclose that activity or interest to the Executive Committee. If the Executive Committee determines that the outside activity or interest adversely affects or otherwise impairs the Executive Director's ability to perform his or her official duties, the Executive Director shall refrain from the outside activity during the term of his or her employment by the ACRPC.
- Should the officers, board members or agents of ACRPC have outside employment, activities or interests which would appear to be or have a potential for being a conflict

of interest with a particular decision at the ACRPC, he or she will recuse himself/herself of decision making responsibilities for that particular instance. *See Section 1301 of ACRPC's Bylaws (2017).*

- This Code of Conduct does not preclude staff, board members, officers or agents of ACRPC from having outside activities as long as those activities do not impair the ability of the person to perform his or her duties without a conflict of interest as defined above.

Competition

- ACRPC will conduct all procurement transactions in a manner providing full and open competition. ACRPC shall endeavor to avoid situations considered to be restrictive of competition, including but not limited to:
 - placing unreasonable requirements on firms for them to qualify to do business;
 - requiring unnecessary experience or excessive bonding;
 - noncompetitive pricing practices between firms or between affiliated companies;
 - noncompetitive awards to contractors on retainer contract if that award is not for the property or services specified for delivery under the retainer contract;
 - organizational conflicts of interest;
 - specifying only a “brand name” product instead of allowing “an equivalent” product to be offered and describing the performance of other relevant requirements of the procurement; and
 - any arbitrary action in the procurement process. *2 CFR 200.319(b)(1-7)*
- In order to ensure objective contractor performance and eliminate unfair competitive advantage, ACRPC shall exclude contractors that develop or draft specifications, requirements, statements of work, invitations to bid, or requests for proposals from competing for such procurements. *2 CFR 200.319(b)*
- ACRPC will not administratively impose state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. This section does not preempt state licensing laws. *2 CFR 200.319(c)*
- ACRPC shall draft written solicitations for goods and services with a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. ACRPC shall endeavor to avoid using detailed product specifications whenever possible. Instead, ACRPC may use “Brand name or equivalent”

descriptions as a means to define the performance or other salient requirements of a procurement. 2 CFR 200.319(d)(1)

- ACRPC will identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals. 2 CFR 200.319(d)(2)
- ACRPC will ensure that all prequalified lists of persons, firms or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. ACRPC will also allow potential bidders to qualify during the solicitation process. 2 CFR 200.319(e)
- Non-competitive procurements can only be awarded in accordance with 200.230(c).
- ACRPC will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps include: placing qualified small and minority businesses and women's business enterprises on solicitation lists; assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises; Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; using services and assistance, as appropriate, identified by such organizations as the small business administration and the minority business development agency of the Department of Commerce; and requiring the prime contractor, if subcontracts are allowed, to take the affirmative steps listed in this section. 2 CFR 200.321

Procurement Types & Requirements

ACRPC hereby adopts the bidding thresholds contained in 2 CFR § 200.320 and Vermont Agency of Administration Administrative Bulletin 3.5 Procurement and Contracting Procedures, for its procurement process. ACRPC shall use procurement by micro-purchase for contact amounts less than \$3,000; procurement by small purchase procedures (contract less than \$100,000); procurement by competitive proposals (optional for contracts under \$100,000, required for contracts over \$100,000). ACRPC's preferred method of procuring contractor services greater than \$15,000 is procurement by competitive proposals.

All contracts are signed by the Executive Director or Chair of ACRPC. Administration of all contracts is the responsibility of the Executive Director who may delegate it to appropriate staff.

Procurement by Micro-Purchase - \$3,000 or less

Procurement by micro-purchase constitutes the acquisition of supplies or services, the aggregate annual dollar amount of which does not exceed the micro-purchase threshold as stated in 2 CFR § 200.67, currently defined at \$3,000. Micro-purchases may be awarded without soliciting

competitive quotations if ACRPC considers the price to be reasonable. To the extent practicable, ACRPC will distribute micro-purchases equitably among qualified suppliers. *2 CFR 200.320(a)*

Procurement by Small Purchase Procedures (Simplified Bid Process) – not more than \$100,000

A standard bidding process is the preferred method for selecting contractors, especially on contracts greater than \$15,000. However, a simplified bid process may be used for relatively simple and informal procurements for securing services, supplies, or other property that do not cost more than \$100,000 (per Vermont Bulletin 3.5). Justification for using a simplified bid process must be submitted to, and approved by, the ACRPC Executive Director in writing. A “simplified bid process” means that the ACRPC has developed a specific and detailed written statement of work for the service or product desired and has solicited written price quotations from at least three potential vendors known to provide the specified services or products. Price quotations may be obtained through telephone or verbal quotes, facsimile quotes, email quotes or written bids. All communications with vendors to obtain price quotes must be documented. All records relating to the simplified bid process, including proposals and a record of the selection process, shall be retained in the contract file. The quotation most responsive to the selection criteria should be selected. If ACRPC is unsure whether the contract will fall below the \$100,000 threshold, the standard bid process will be undertaken. *2 CFR 200.329(b), Vermont Bulletin 3.5 Section VIII(A)*

Procurement by Competitive Proposals (Standard Bid Process) – Preferred for Contracts less than \$100,000; Required for Contracts Greater than \$100,000

Procurement by competitive proposal is ACRPC’s preferred method for procuring contractor services over \$15,000 and is required for contracts greater than \$100,000 (per Vermont Bulletin 3.5). The technique of soliciting competitive proposals is normally conducted with more than one contractor submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when the following conditions apply: *2 CFR 200.320(d) and Vermont Bulletin 3.5 Section VIII(B)*

- Written requests for qualifications, proposals or bid solicitations will be publicized and identify all requirements which the Offeror’s must fulfill and all other factors to be used in evaluating the bids or proposals, including the relative importance of the factor. It is recommended, but not required, that a minimum of three weeks be allowed for responses. Any response to publicized requests for qualifications, proposals or bids shall be considered to the maximum extent practical; *2 CFR 200.320(d)(2)*
- Qualifications, proposals or bids will be solicited from an adequate number of qualified sources;
- ACRPC will have a written method for conducting technical evaluations of the qualifications, proposals or bids received and for selecting awardees. ACRPC shall determine the allowability of all costs incurred by evaluating each proposal pursuant to

the procedures for determining the allowability of costs contained within its Financial Procedures Policy dated January 2023;

- Awards will be made to the responsible contractor whose qualifications, proposal or bid is most advantageous to the program, with price and other factors considered
Qualifications-based procurement cannot be used to procure construction services.

Procurement by Noncompetitive Proposals

Procurement by noncompetitive proposals is contrary to the competitive process supported by ACRPC and will be avoided except when no available alternative exists. Procurement by noncompetitive proposals solicits proposals 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 not feasible under a competitive bid process 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; or after solicitation of a number of sources, competition is determined inadequate. *2 CFR 200.320(c)*

Procurement by Time & Material Type Contracts

ACRPC will use time and material type contracts, as defined in 2 CFR §200.318(j), only after a determination that no other contract is suitable, and if the contract includes a ceiling price that the contractor exceeds at its own risk. It is noted that time and material contracts provide no incentive for cost control or labor efficiency.

Contractor & Consultant Selection Procedure

ACRPC conducts regional and transportation planning for the benefit of the municipalities and citizens of the Addison Region. For tasks that ACRPC chooses to sub-contract, ACRPC may procure the services of contractors. ACRPC's preferred method for procuring contractor services is a Standard Bid Process, though a Simplified bid process may be used under some circumstances (see above). ACRPC will follow the procedures described below for procuring contractor services using a Standard Bid Process.

ACRPC maintains an informal list of potential contractors that include contractors who are currently working for ACRPC, those who have previously worked for ACRPC and those who have expressed interest in working with ACRPC. The list also includes contractors identified by the Vermont Agency of Transportation (VTrans) and other sources. The intention of this list is to contain all potentially qualified contractors. Interested contractors will be added to the list upon request and ACRPC will update the list regularly. ACRPC will not preclude potential bidders from qualifying during the solicitation process. *2 CFR 200.319(d)*

- **Request for Proposal.** For projects where the scope of work is well defined ACRPC may use a Request for Proposal (RFP) process. For this process ACRPC staff will solicit proposals from contractors listed on ACRPC's contractor list. ACRPC shall place the RFP on the Vermont Bid System and may also place an ad in a newspaper of general circulation and may place a notice on ACRPC's website announcing the availability of the Request for Proposals. For specialized services, other sources for distribution of the RFP may be used.
- **Request for Qualifications.** For projects where the scope of work is not well defined or where the anticipated contractor response is expected to be large, a Request for Qualifications (RFQ) process may be used. If an RFQ process is undertaken, ACRPC staff will solicit statements of qualification from contractors listed on ACRPC's contractor list. ACRPC shall place the RFQ on the Vermont Bid System and ACRPC may also place an ad in a newspaper of general circulation and may place a notice on ACRPC's website announcing the availability of the Request for Qualifications. For specialized services, other sources for distribution of the RFQ may be used. A short list of contractors deemed to be qualified to perform the project may be sent a RFP for final selection of a contractor.
- **RFP or RFQ Formats and Requirements.** The RFP or RFQ will contain adequate project descriptive information for contractors to understand the scope of the project. The RFP or RFQ will also detail the information required to be considered responsive to the RFP/RFQ and will outline the criteria that will be used for contractor selection. The contractors will be asked to provide the information listed below, as well as other items deemed important to the proposed project. *Consistent with Vermont Bulletin 3.5 Section VIII (B)(2)*

 - Name, address and brief history and description of the firm.
 - Resumes of key personnel to be assigned to the project.
 - Related projects/areas of expertise/experience.
 - Description of budgeting, cost and quality control procedures.
 - A brief description of the firm's approach to the project.
 - Additional information ACRPC may think is useful.
- **RFP/RFQ Evaluation.** The RFP/RFQ will be evaluated considering a predetermined system of criteria and by a predetermined selection committee likely consisting of representatives of the affected communities, ACRPC staff members, a representative of VTrans, and others with expertise in the area of the proposal. Criteria may include, but not be limited to the following:

 - Responsiveness to the scope of work
 - Knowledge of the project area
 - Quality and number of staff assigned to the project

- Distribution of staff hours to tasks
- Specific experience of the proposed staff
- Schedule
- Creativity of methodological approach
- Technical resources
- Location of the key management and staff team in relation to the location of the project.
- Overall experience of the firm
- Experience with similar projects
- Good faith effort soliciting DBE's. The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program.

Once the proposal is discussed and ranked the cost proposal, if required, will be reviewed for consistency with, and in light of, the evaluation of the technical proposal.

The ACRPC reserves the right to seek clarification of any proposal submitted and to select the proposal considered to best promote the public interest.

All proposals become the property of ACRPC upon submission. The cost of preparing, submitting and presenting a proposal is the sole expense of the contractor. The ACRPC reserves the right to reject any and all proposals received as a result of any solicitation, to negotiate with any qualified source, to waive any formality and any technicalities or to cancel a project in part or in its entirety if it is in the best interest of the ACRPC. This solicitation of proposals in no way obligates the ACRPC to award a contract.

Bid Protest Procedure

ACRPC, in accordance with good administrative practice and sound business judgment, will be responsible for the settlement of all contractual and administrative issues arising out of procurement. If a dispute arises, ACRPC will notify the funding Agency. The Executive Director of the Addison County Regional Planning Commission, together with the Committee responsible for the solicitation will meet with the party filing a bid protest to hear the issues that are the subject of the protest, and to present the procurement procedures that were followed. If the matter cannot be satisfactorily resolved, the Executive Director will refer the dispute to ACRPC's Executive Board, which shall meet as a "Disputes Committee", render its final decision and notify the funding agency of the outcome.