

TITLE III. COMMUNITY DEVELOPMENT AND SERVICES

ARTICLE X
CODE OF CONDUCT AND PROCUREMENT POLICY IN
CONNECTION WITH COMMUNITY DEVELOPMENT BLOCK
GRANTS AND LOANS (FEDERAL AND/OR STATE)

A. CODE OF CONDUCT

3-10.1 APPLICATION. This Code of Conduct applies to all officers, employees, or agents of the city of Salem engaged in the award or administration of contracts supported by federal grant and/or loan funds and state loan and/or grant funds.

(Ordinance 1989-5, passed December 5, 1989.)

3-10.2 REQUIREMENTS. No officer, employee, or agent of the City of Salem shall participate in the selection, award, or administration of a contract supported by federal grant and/or loan funds and state loan and/or grant funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. the employee, officer, or agent;
- b. any member of his/her immediate family;
- c. his/her partner; or
- d. 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.

(Ordinance 1989-5, passed December 5, 1989.)

The City of Salem officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or subcontractors.

3-10.3 REMEDIES. To the extent permitted by federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions, or other disciplinary actions to be taken against the City of Salem's officers, employees, or agents, or the contractor's, potential contractors, subcontractors, or their agents.

B. PROCUREMENT POLICY

3-10.4 APPLICATION. This policy applies to the procurement of all supplies, equipment, construction and services of and the City of Salem related to the implementation and administration of any federal grant or loan program, including, but not limited to, Community Development Block Grants, Economic Development Administration Funds (EDA), Public Facility Set-Aside Funds (PFSA), Imminent Threat Funds, Farmers Home Administration Loans or Funds, and State of Iowa Loans or Grant Programs, including, but not limited to, Iowa Rural Community 2000 (RC 2000). All procurement will be done in accordance with OMB Circular A-102, Attachment 0 and any amendments thereto.

(Ordinance 1989-5, passed December 5, 1989.)

3-10.5 POLICY.

I. Methods of Procurement

Procurement under grants shall be made by one of the following methods, as described herein. (a) small purchase procedures; (b) competitive sealed bids (formal advertising); (c) competitive negotiation; (d) noncompetitive negotiation.

A. Small purchase procedures are relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies, or other property, costing in the aggregate not more than \$10,000.00 the City of Salem shall comply with State or local small purchase dollar limits under \$10,000.00. If small purchase procedures are used for a procurement under a grant, price or rate quotation shall be obtained from at least three qualified sources.

B. In competitive sealed bids (formal advertising), sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all of the material terms and conditions of the invitation for bids, is lowest in price.

1. Appropriate conditions in order for formal advertising to be feasible must be present, including, as a minimum, the following:

- (a) a complete, adequate and realistic specification or purchase description;
- (b) two or more responsible suppliers are willing and able to compete effectively for the City of Salem's business; and
- (c) the procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.

2. When formal advertising is used for a procurement under a grant, the following requirements shall apply:

- (a) A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.
- (b) The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.
- (c) All bids shall be opened publicly at the time and place stated in the invitation for bids.
- (d) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of the City of Salem indicates that such discounts are generally taken.
- (e) Any or all bids may be rejected when there are sound documented business reasons in the best interest of the program.

C. In competitive negotiation, proposals are requested from a number of sources and the Request for Proposal is publicized. Negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate for the use of formal advertising. If competitive negotiation is used for a procurement under a grant, the

following requirements shall apply:

1. Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposal shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.

2. The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.

3. The City of Salem shall provide mechanisms for technical evaluation of the proposals received, determinations of responsible offerors for the purpose of written or oral discussions, and selection for contract award.

4. Awards may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors will be notified promptly.

5. The City of Salem may utilize competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitor's qualifications are evaluated and the most qualified competitors' qualifications are selected, subject to negotiation of fair and reasonable compensation.

D. Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is unfeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

1. the item is available from only a single source;
2. after solicitation of a number of sources, competition is determined inadequate;
3. public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation; and
4. sole source procurement for supplies, equipment, construction, and services valued at \$10,000.00 or more must have prior approval of the Iowa Office for Planning and Programming.

E. The City of Salem will provide, to the greatest extent possible, that contracts be awarded to small businesses located within the project area or owned in substantial part by project area residents. (The project area is defined as the county in which the project is located.)

F. Any other method of procurement must have prior approval of the Iowa Office for Planning and Programming.

II. Contract Pricing

A. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.

B. The City of Salem shall perform some form of cost/price analysis for every procurement action, including modifications or change orders.

III. Small, Minority, and Women's Business Enterprises and Labor Surplus Area Firms

A. The City of Salem may solicit qualified small, minority, and women's businesses whenever they are potential sources.

B. The City of Salem will procure goods and services from labor surplus areas when economically feasible.

IV. Procurement Records

The City of Salem shall maintain records sufficient to detail the significant listing of a procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

(Section 3-10.1 through 3-10.3, Ordinance No. 1986-4 passed May 20, 1986, and Sections 3-10.4 and 3-10.5, Ordinance No. 1986-5 passed May 20, 1986. Certain Sections [3-10.1, 3-10.2 and 3-10.4] were amended by Ordinance No. 1989-5, passed December 5, 1989.)