

THE PROCUREMENT OF PROFESSIONAL SERVICES

I. PURPOSE

To adopt Purchasing Procedures for Rockdale County to set forth the general policy of the Board of Commissioners of Rockdale County governing the procurement of professional services for Rockdale County.

II. STATEMENT OF POLICY

Competitive negotiations are the selection process of choice, which places emphasis almost exclusively on qualitative factors of qualification and competence, not price, as the primary criteria for procurement of professional services. The purpose of this policy is to establish procedures to provide the citizens of Rockdale County, in the procurement of professional services, the most advantageous quality product based upon qualifications and competence followed by an acceptable fee negotiation process.

The Board of Commissioners, in adopting this policy, reserves the right to modify the procedures set forth herein, on appropriate notice, so as to adapt these procedures to unusual or other circumstances as the Board of Commissioners deems appropriate.

III. DEFINITIONS

Prequalification means the screening of potential vendors in which such factors as financial capability, reputation, and management are considered in order to develop a list of qualified list of vendors.

Prequalification List means a list of prequalified vendors.

Professional Services means services of a unique nature not normally subject to competition such as legal and medical services as well as telephone and other utilities. Acquisition by the county of such services shall be made only upon approval of the board of commissioners, which board may advertise, interview, seek bids or quotations for such services as will, in the board's discretion, aid in obtaining the best such service available. Insurance shall be considered a "professional service" hereunder.

RFP means "Request for Proposal" and includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals.

RFQ means "Request for Qualifications" and includes all documents, whether attached or incorporated by reference, utilized for soliciting qualified vendors information.

Selection Committee means a team established to conduct interviews and negotiations during proposal evaluation for a specific product or service. Teams typically represent the functional areas to be addressed in the discussions, with a purchasing representative chairing the team.

Short List means a list of selected vendors that is listed for further consideration.

IV. METHODS OF SELECTION

A. Generally. The provisions of paragraphs B, C, and D of this Section IV shall not be applicable in the following circumstances:

1. The County Attorney shall select and recommend to the Board of Commissioners the procurement of such legal services as are necessary beyond the scope of the services provided by the office of the County Attorney. Legal services for the purpose of this procurement policy shall not include the criminal defense of indigent defendants for any of the courts of Rockdale County.

2. Given the unique circumstances related to the procurement of professional services of financial advisors, auditors, and certain types of insurance providers (including but not limited to health and related services), the Director of Finance is authorized to utilize and recommend the procurement of such services as will, in his/her discretion, best serve the citizens and employees of Rockdale County.

B. **Professional Services Not Exceeding \$25,000.** For the procurement of professional services that, due to a limited dollar amount of not more than \$25,000, do not justify the administrative time and expenses for procurement by competitive proposals or otherwise, the Director of Finance is authorized to utilize informal methods and procedures for acquisition of such services. Generally, procurement of such services will be obtained through telephone quotation or informal written solicitation.

C. **Professional Services Not Exceeding \$100,000.**

1. Develop a scope of services and determine necessary qualifications.
2. Select a firm from a prequalified list for the services required and solicit a proposal from such firm, which proposal may serve as the basis for negotiation of a contract.
3. If an acceptable agreement cannot be negotiated with the selected prequalified firm, negotiations shall cease and the Director of Finance may select another firm from a prequalified list and follow the same procedures. In the alternative the Director of Finance may elect not to proceed with the scope of services and conclude the process. In the event an agreement can be reached the agreement shall be presented to the Board of Commissioners for review and consideration. All professional services agreements must be approved and authorized by the Board of Commissioners.

4. The Director of Finance may utilize the procedures set forth below in Section IV. D.

D. **Professional Services Exceeding \$100,000 - Acquisition by Competitive Sealed Proposals**

1. Generally. Any professional services exceeding \$100,000 in amount or which involves procurement by competitive sealed proposals pursuant to State law, shall utilize the procedures set forth in this section.

2. a. **Prequalification.** When the Director of Finance has determined that prequalification of potential firms is appropriate, the applicable prequalification procedures shall be utilized.

b. **Request for Proposals.** Proposals for providing the professional services sought shall be solicited by the issuance of a Request for Proposals. If there is a prequalification process applicable to the procurement, dissemination of the Request for Proposals may be limited to the prequalified Firms. If no prequalification process is applicable to the procurement, public notice of the Request for Proposals shall be advertised

c. **Requirement of Sealed Proposals.**

(i) No written proposal shall be eligible for consideration unless it is placed in a sealed envelope or package. All proposals submitted by a proposing Firm shall have separately sealed submissions for the non-price proposal and the price proposal.

(ii) The contents of any submitted proposal shall not be publicly disclosed until after the Board of Commissioners has approved the award of a contract.

3. **Evaluation Process and Rankings**

a. The Selection Committee shall evaluate the proposals and prepare a ranking of the proposals. In its discretion, the Selection Committee may prepare a list of the highest ranked Firms which list shall be called the Short List.

b. The rankings determined by the Selection Committee shall be based on the evaluation criteria, excluding price, unless directed otherwise by the Board of Commissioners. The Selection Committee shall submit its rankings to the Board of Commissioners.

c. The Board of Commissioners may either (1) award the contract or (2) authorize negotiations of a contract including negotiation of a price.

d. In its sole discretion, the Board of Commissioners may direct that the sealed price proposals of each Firm on the list submitted by the Firms to the Board of Commissioners be opened for review by the Board of Commissioners, but without public disclosure.

4. **Negotiations**

a. If the Board of Commissioners authorizes negotiations, such negotiations may be held with the Firm or Firms designated by the Board of Commissioners.

b. If the Board of Commissioners authorizes negotiations with more than one firm, then negotiations with the designated firms shall follow the procedures relating to

best and final offer set forth in O.C.G.A. 36-91-21(c)(2) as enacted as of the date of the adoption of this policy.

c. Upon the successful completion of the negotiations, the Board of Commissioners may award the contract.

d. If it is determined that negotiations cannot be successfully completed with any of the firms designated by the Board of Commissioners, then the competitive negotiations efforts may be terminated. At any time, the Board of Commissioners may in its discretion terminate negotiations.

V. **PREQUALIFICATION PROCESS**

A. The Director of Finance is authorized to determine that a process for mandatory prequalification is appropriate for the procurement for a particular professional service, subject to these requirements:

1. Criteria for prequalification shall be reasonably related to the project to the service, which criteria for prequalification shall be available to any prospective offerer or requesting such information.
2. The Director of Finance shall notify the firm applying for prequalification as to whether the firm shall be included on the list of prequalified firms to be eligible to perform the specified type of professional services.
3. If a firm is determined not to be prequalified, a firm may appeal the decision in writing, to the Director of Finance, detailing the basis for the appeal. The decision of the Director of Finance is final.
4. As determined by the Director of Finance, in his/her discretion, a requirement that firms seeking prequalification must maintain an office in the Metropolitan Atlanta region may be established for either a list of prequalified firms or as part of a Request for Qualification for a specific project. The Metropolitan Atlanta region is defined as including the following counties: those counties which make up the Atlanta Regional Commission effective as of the date of the commencement of the procurement process by the County. If such a requirement has been established for a particular procurement, the Board of Commissioners may, in its discretion, waive that requirement.

B. **Prequalification**

1. **Lists Maintained by Rockdale County.** The Director of Finance is authorized to establish a standing list of Firms prequalified for a type of service whose professional services are sought on a regular and standardized basis. If such a list is established and maintained, a Firm desiring to qualify may submit an application for prequalification on prescribed forms. If deemed appropriate, additional information may be requested of the applicant in order to make a determination, based on the ability and experience of the applicant, to perform the service.

2. **Lists Maintained by the State of Georgia.** The Director of Finance is authorized to utilize a prequalification list for a professional service, which is maintained by an agency of the State of Georgia.

3. **Prequalification Through a Request for Qualification.** The prequalification process for a specific project may be initiated by the issuance of a Request for Qualification. Notice of the RFQ shall be advertised.

VI. FEDERAL AID HIGHWAY PROGRAM (FAHP) FUNDING

Competitive Negotiation Qualifications-based Selection for Projects Using Federal Aid Highway Program (FAHP) Funding:

Except as provided in (2) and (3) below, Rockdale County shall use the competitive negotiation method for the procurement of engineering and design related services when FAHP funds are involved in the contract (as specified in 23 U.S.C. 112(b)(2)(A)). The solicitation, evaluation, ranking, selection, and negotiation shall comply with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101–1104, commonly referred to as the Brooks Act.

In accordance with the requirements of the Brooks Act, the following procedures shall apply to the competitive negotiation procurement method:

A. Solicitation.

The solicitation process shall be by public announcement, public advertisement, or any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract. Procurement procedures may involve a single step process with issuance of a request for proposal (RFP) to all interested consultants or a multiphase process with issuance of a request for statements or letters of interest or qualifications (RFQ) whereby responding consultants are ranked based on qualifications. Request for proposals are then provided to three or more of the most highly qualified consultants. Minimum qualifications of consultants to perform services under general work categories or areas of expertise may also be assessed through a prequalification process whereby statements of qualifications are submitted on an annual basis. Regardless of any process utilized for prequalification of consultants or for an initial assessment of a consultant's qualifications under a RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.

B. Request for Proposal (RFP).

The RFP shall provide all information and requirements necessary for interested consultants to provide a response to the RFP and compete for the solicited services. The RFP shall:

- (1) Provide a clear, accurate, and detailed description of the scope of work, technical requirements, and qualifications of consultants necessary for the services to be rendered. The scope of work should detail the purpose and description of the project, services to be performed, deliverables to be provided, estimated schedule for performance of the work, and applicable standards, specifications, and policies;
- (2) Identify the requirements for any discussions that may be conducted with three (3) or more of the most highly qualified consultants following submission and evaluation of proposals;
- (3) Identify evaluation factors including their relative weight of importance in accordance with subparagraph (a)(1)(iii) of this section;
- (4) Specify the contract type and method(s) of payment to be utilized in accordance with § 172.9;
- (5) Identify any special provisions or contract requirements associated with the solicited services;
- (6) Require that submission of any requested cost proposals or elements of cost be in a concealed format and separate from technical/qualifications proposals as these shall not be considered in the evaluation, ranking, and selection phase; and
- (7) Provide a schedule of key dates for the procurement process and establish a submittal deadline for responses to the RFP which provides sufficient time for interested consultants to receive notice, prepare, and submit a proposal, which except in unusual circumstances shall be not less than 14 days from the date of issuance of the RFP.

C. Evaluation Factors.

- (1) Criteria used for evaluation, ranking, and selection of consultants to perform engineering and design related services must assess the demonstrated competence and qualifications for the type of professional services solicited. These qualifications-based factors may include, but are not limited to, technical approach (e.g., project understanding, innovative concepts or alternatives, quality control procedures), work experience, specialized expertise, professional licensure, staff capabilities, workload capacity, and past performance.
- (2) Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.
- (3) In-State or local preference shall not be used as a factor in the evaluation, ranking, and selection phase. State licensing laws are not preempted by this provision and

professional licensure within a jurisdiction may be established as a requirement which attests to the minimum qualifications and competence of a consultant to perform the solicited services.

(4) The following non-qualifications based evaluation criteria are permitted under the specified conditions and provided the combined total of these criteria do not exceed a nominal value of ten percent of the total evaluation criteria to maintain the integrity of a qualifications-based selection:

(a) A local presence may be used as a nominal evaluation factor where appropriate. This criterion shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant outside of the locality area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.

(b) The participation of qualified and certified Disadvantaged Business Enterprise (DBE) sub-consultants may be used as a nominal evaluation criterion where appropriate in accordance with 49 CFR Part 26 and Rockdale County's FHWA-approved DBE program.

D. Evaluation, Ranking, and Selection.

(1) Consultant proposals shall be evaluated by Rockdale County based on the criteria established and published within the public solicitation.

(2) While the contract will be with the prime consultant, proposal evaluations shall consider the qualifications of the prime consultant and any sub-consultants identified within the proposal with respect to the scope of work and established criteria.

(3) Following submission and evaluation of proposals, Rockdale County shall conduct interviews or other types of discussions and determine three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFP. Discussion requirements shall be specified within the RFP and should be based on the size and complexity of the project as defined in Rockdale County's written policies and procedures (as specified in § 172.5(c)). Discussions may be written, by telephone, video conference, or by oral presentation/interview. Discussions following proposal submission are not required provided proposals contain sufficient information for evaluation of technical approach and qualifications to perform the specific project, task, or service with respect to established criteria.

(4) From the proposal evaluation and any subsequent discussions which have been conducted, Rockdale County shall rank, in order of preference, at least three consultants determined most highly qualified to perform the solicited services based on the established and published criteria.

(5) Notification must be provided to responding consultants of the final ranking of the three most highly qualified consultants.

(6) Rockdale County shall retain acceptable documentation of the solicitation, proposal, evaluation, and selection of the consultant accordance with the provisions of 49 CFR 18.42.

E. (1) Negotiation.

(a) Independent estimate. Prior to receipt or review of the most highly qualified consultant's cost proposal, Rockdale County shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultant's fixed fee for the defined scope of work. The independent estimate shall serve as the basis for negotiation and ensuring the consultant services are obtained at a fair and reasonable cost.

(b) Elements of contract costs (e.g., indirect cost rates, direct salary or wage rates, fixed fee, and other direct costs) shall be established separately in accordance with § 172.11.

(c) If concealed cost proposals were submitted in conjunction with technical/qualifications proposals, only the cost proposal of the consultant with which negotiations are initiated may be considered. Concealed cost proposals of consultants with which negotiations are not initiated should be returned to the respective consultant due to the confidential nature of this data (as specified in 23 U.S.C. 112(b)(2)(E)).

(d) Rockdale County shall retain documentation of negotiation activities and resources used in the analysis of costs to establish elements of the contract in accordance with the provisions of 49 CFR 18.42. This documentation shall include the consultant cost certification and documentation supporting the acceptance of the indirect cost rate to be applied to the contract (as specified in § 172.11(c)).

(2) Small Purchases.

The small purchase method involves procurement of engineering and design related services where an adequate number of qualified sources are reviewed and the total contract costs do not exceed an established simplified acquisition threshold. Rockdale County may use the State's small purchase procedures which reflect applicable State laws and regulations for the procurement of engineering and design related services provided the total contract costs do not exceed the Federal simplified acquisition threshold (as

specified in 48 CFR 2.101). When a lower threshold for use of small purchase procedures is established in State law, regulation, or policy, the lower threshold shall apply to the use of FAHP funds. The following additional requirements shall apply to the small purchase procurement method:

- (a.) The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of small purchase procedures.
- (b.) A minimum of three consultants are required to satisfy the adequate number of qualified sources reviewed.
- (c.) Contract costs may be negotiated in accordance with State small purchase procedures; however, the allowability of costs shall be determined in accordance with the Federal cost principles.
- (d.) The full amount of any contract modification or amendment that would cause the total contract amount to exceed the established simplified acquisition threshold would be ineligible for Federal-aid funding. The FHWA may withdraw all Federal-aid from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

(3) Noncompetitive.

The noncompetitive method involves procurement of engineering and design related services when it is not feasible to award the contract using competitive negotiation or small purchase procurement methods. The following requirements shall apply to the noncompetitive procurement method:

- (a) Rockdale County may use their own noncompetitive procedures which reflect applicable State and local laws and regulations and conform to applicable Federal requirements.
- (b) Rockdale County shall establish a process to determine when noncompetitive procedures will be used and shall submit justification to, and receive approval from, the FHWA before using this form of contracting.
- (c) Circumstances under which a contract may be awarded by noncompetitive procedures are limited to the following:
 - (i) The service is available only from a single source;
 - (ii) There is an emergency which will not permit the time necessary to conduct competitive negotiations; or
 - (iii) After solicitation of a number of sources, competition is determined to be inadequate.

F. Contract costs may be negotiated in accordance with Rockdale County's noncompetitive procedures; however, the allowability of costs shall be determined in accordance with the Federal cost principles.

G. Additional Procurement Requirements.

(1) Common Grant Rule.

a. Rockdale County must comply with procurement requirements established in State and local laws, regulations, policies, and procedures which are not addressed by or in conflict with applicable Federal laws and regulations (as specified in 49 CFR 18.36).

b. When State and local procurement laws, regulations, policies, or procedures are in conflict with applicable Federal laws and regulations, Rockdale County must comply with Federal requirements to be eligible for Federal-aid reimbursement of the associated costs of the services incurred following FHWA authorization (as specified in 49 CFR 18.4).

(2) Disadvantaged Business Enterprise (DBE) program.

a. Rockdale County shall give consideration to DBE consultants in the procurement of engineering and design related service contracts subject to 23 U.S.C. 112(b)(2) in accordance with 49 CFR part 26. When DBE program participation goals cannot be met through race-neutral measures, additional DBE participation on engineering and design related services contracts may be achieved in accordance with Rockdale County's FHWA approved DBE program through either:

(i) Use of an evaluation criterion in the qualifications-based selection of consultants (as specified in § 172.7(a)(1)(iii)(D)); or

(ii) Establishment of a contract participation goal.

b. The use of quotas or exclusive set-asides for DBE consultants is prohibited (as specified in 49 CFR 26.43).

(3) Suspension and Debarment.


Rockdale County must verify suspension and debarment actions and eligibility status of consultants and sub-consultants prior to entering into an agreement or contract in accordance with 49 CFR 18.35 and 2 CFR part 180.

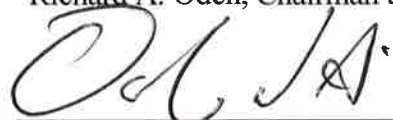
H. Policy Changes


The Board of Commissioners reserves the right to delete, modify, amend or terminate this policy at any time, with or without prior notice.

Approved this 28 day of April 2015.

**ROCKDALE COUNTY, GEORGIA
BOARD OF COMMISSIONERS**

By: 
Richard A. Oden, Chairman and CEO

By: 
Osborn Nesbitt, Sr.

By: 
Doreen L. Williams

Attest:


Jennifer O. Rutledge, County Clerk