

RESOLUTION 2020-071

PASSED: JULY 13, 2020

AUTHORIZING A SUBRECIPIENT AGREEMENT WITH VOLUNTARY ACTION CENTER (VAC) FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS IN THE AMOUNT OF \$14,000 FOR FUNDING THE SUMMER MEALS PROGRAM AT UNIVERSITY VILLAGE.

WHEREAS, the City of DeKalb will receive Community Development Block Grant (CDBG) funds from the United States Department of Housing and Urban Development (HUD); and,

WHEREAS, the City Council approved, in the CDBG Action Plan and Proposed Use of Funds for Program Year 2020, a total of up to \$69,000 of CDBG funds to be used for public services;

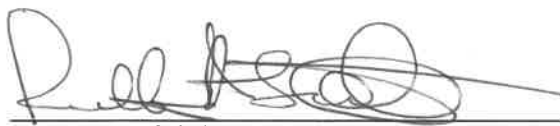
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:


SECTION 1: That the Mayor of the City of DeKalb be authorized and directed to enter into an Agreement with Voluntary Action Center (VAC) for \$14,000 of CDBG funds to support a program to provide a Summer Meals Program to the children of University Village, a copy of which is attached hereto and made part hereto as Exhibit "A".

SECTION 2: That the City Clerk or Executive Assistant of the City of DeKalb, Illinois be authorized and directed to attest the Mayor's Signature and shall be effective thereupon.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a Regular meeting thereof held on the 13th day of July 2020 and approved by me as Mayor on the same day. Passed by a 7-0-1 roll call vote. Aye: Morris, Finucane, Perkins, McAdams, Verbic, Faivre, Mayor Smith. Nay: None. Abstain: Smith.

ATTEST:


RUTH A. SCOTT, Executive Assistant


JERRY SMITH, Mayor



**VOLUNTARY ACTION CENTER
(VAC)**

1606 Bethany Road

Sycamore, IL 60178

(815)758-3932

The project described herein is being funded by a Grant from the City of DeKalb, Illinois as part of the City's **2020 Community Development Block Grant (CDBG)** program which is authorized under Title 1 of the Housing and Community Development Act of 1974, as amended.

**CITY OF DEKALB
COMMUNITY DEVELOPMENT BLOCK GRANT
SUBRECIPIENT AGREEMENT**

This Community Development Block Grant Sub-Recipient Agreement (the "AGREEMENT") is made on this 13th day of July 2020, by and between the **City of DeKalb**, an Illinois Municipal Corporation (hereinafter "CITY") and the **Voluntary Action Center (VAC)** (hereinafter "SUBRECIPIENT").

RECITALS

WHEREAS, Resolution 2020- 071 adopted on July 13, 2020 by the DeKalb City Council to approve the submission to the United States Department of Housing and Urban Development (hereinafter "HUD") of the 2020 One Year Action Plan, and the reallocation of unspent CDBG Funds from prior years, respectively, the City's application for Community Development Block Grant (hereinafter "CDBG") funds under Title 1 of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, said application was approved by HUD on Date TBA; and

WHEREAS, approval of the application by HUD, along with Resolution 2020- 071, authorizes City Staff to enter into this Agreement in furtherance of the CITY's Community Development objectives; and

WHEREAS, SUBRECIPIENT has been awarded certain CDBG grant funds (the "Grant") to utilize in Subrecipient's programming that is outlined in the Agreement and Appendices and this Agreement shall govern Subrecipient's use of the Grant funds;

NOW, THEREFORE, the CITY and the SUBRECIPIENT, having first found the foregoing recitals as fact, and in consideration of the mutual covenants set forth below, hereby agree as follows:

AGREEMENT

- I. **APPENDICES TO AGREEMENT:** All Appendices (A through F) attached to this Agreement are incorporated and made a part of this Agreement as referenced herein. SUBRECIPIENT agrees to abide by and follow all terms and conditions as set forth in said Appendices.
- II. **WORK TO BE PERFORMED BY SUBRECIPIENT:** In exchange for receiving CDBG grant funds from the CITY for the Summer Meals Program at University Village provided by VAC, the SUBRECIPIENT shall be responsible for administering the Program(s) as described in Appendix A (for each program) in a manner satisfactory to the CITY and substantially consistent with any standards and regulations that are specified in this Agreement and adherence to the same is a condition of providing these funds. SUBRECIPIENT commits to the Program goals that are outlined in Appendix A, including (1) the number of people to be served, (2) the number of program participants who are expected to be DeKalb residents, and (3) the number of program participants who shall meet HUD's definition of low- or moderate-income persons, and outcome measures as outlined in Appendix A. SUBRECIPIENT agrees to expend the total amount of CDBG

funds covered in this Agreement, solely for the agreed upon activities and in accordance with the conditions outlined in this Agreement and the Program budget(s) in Appendix B.

III. GENERAL COMPLIANCE WITH APPLICABLE LAWS: SUBRECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (HUD regulations concerning CDBG). The SUBRECIPIENT also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this agreement.

SUBRECIPIENT additionally agrees to comply with any changes issued to the CITY's CDBG program by HUD. SUBRECIPIENT understands that changes issued to the CITY's CDBG program by HUD may materially alter the terms of this Agreement. The City will distribute any amendments to the CDBG program within thirty (30) days and SUBRECIPIENT must acknowledge the receipt.

SUBRECIPIENT acknowledges and affirms that the SUBRECIPIENT has the organizational capacity to adhere to collection and reporting requirements, regarding performance measures, as required by Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule ("Omni Circular") Subpart D, Sections 200.300 – 200.303. Such performance measures shall be decided upon by the SUBRECIPIENT and the CITY'S CDBG Grant Administrator, based on the requirements outlined by HUD for the category of eligible activities that the SUBRECIPIENT'S program engages in. These categories have been described within HUD's "Community Development Block Grant Program: Guide to National Objectives & Eligible Activities for Entitlement Communities," and the Guide shall be incorporated hereto by reference, and is attached as Appendix C. Organizational capacity shall be demonstrated by various methods, including but not be limited to:

- Use of OMB-approved standard information collections when providing financial and performance information.
- Financial data is provided for performance accomplishments of the Grant award.
- Cost information shall be distributed to demonstrate cost effective practices.
- Subrecipient shall provide the City with the same information required by the Federal awarding agency under sections 200.301 and 200.210; and
- All expenditures shall be accounted for, in compliance with requirements under section 200.302, as interpreted by the CITY's CDBG Grant Administrator.

SUBRECIPIENT agrees to follow either the procurement guidelines set forth in Section 200.320 of the Omni Circular, or the procurement guidelines/standards which the SUBRECIPIENT uses during its normal course of business; whichever of the two guidelines is more restrictive. If the procurement methods that the SUBRECIPIENT uses during its normal course of business are more restrictive, those guidelines shall be used, and a copy of those guidelines shall be attached to this contract as Appendix D and shall be incorporated into this contract by reference. If the procurement guidelines set forth in Section 200.320 of the Omni Circular are more restrictive, then the program procurement methods shall be limited to either (1) procurement by small purchase procedures, (2) procurement by sealed bids, (3) procurement by competitive proposals, or (4) procurement by noncompetitive proposals, as directed by and outlined in Section 200.320.

The SUBRECIPIENT affirms that, per Federal regulations, SUBRECIPIENT has a Data Universal Numbering System (DUNS) number, assigned by Dun and Bradstreet, Inc., and will provide proof of this DUNS number to the CITY, prior to the approval of project funding.

- IV. LENGTH OF AGREEMENT:** The term of this Agreement shall begin no sooner than April 1, 2020 and end on March 31, 2021. Payment of CDBG grant funds by the CITY to the SUBRECIPIENT shall occur for eligible services and/or activities performed by the SUBRECIPIENT during the term of this Agreement as long as the SUBRECIPIENT is performing in accordance with the terms of the Agreement.

Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the SUBRECIPIENT has control over CDBG funds, including any program income.

- V. AMOUNT OF APPROPRIATION:** The appropriation of CDBG funds for the Program shall be for an amount not to exceed **Fourteen Thousand dollars (\$14,000.00)** to be distributed as funding for the following program: Summer Meals Program at University Village. The SUBRECIPIENT understands that the amount of these appropriations may be adjusted during the program year due to funding alterations made by the United States Congress, HUD, and/or the CITY. Any new local appropriations shall occur upon approval by the DeKalb City Council. SUBRECIPIENT understands that the awarding of the grant(s) under this Agreement in no way implies the continued financial support of the program(s) or services of the SUBRECIPIENT by the CITY beyond the specific period of this Agreement.

- VI. INELIGIBLE PROGRAM COSTS:** The SUBRECIPIENT agrees that certain direct program costs are ineligible for CDBG funds. Recording requirements prescribed by Congress, HUD or the CITY may require these costs be listed within the budget, but these costs will not be paid for using CDBG funds provided by the CITY. Ineligible direct program costs can be found in Appendix F, which is incorporated into this contract by reference.

- VII. PAYMENT OF CDBG FUNDS TO SUBRECIPIENT:** The CITY agrees to fund the Program(s) in the form of a grant in a total aggregate amount not to exceed Fourteen Thousand dollars (\$14,000.00). Such funds shall be paid to the SUBRECIPIENT according to the schedule in Appendix E. The CITY CANNOT disperse any grant funds until the Environmental Review is complete and this Agreement has been executed by both parties (24 CFR Sec. 570.503 (a)). The Environmental Review will be completed by the City and shall be executed in a timely manner.
- The SUBRECIPIENT understands that this Agreement is for Public Services Programs and that payments shall be made per the schedule in Appendix E.
 - The SUBRECIPIENT understands that disbursement will be contingent upon the SUBRECIPIENT ensuring compliance with any applicable federal, state, and CITY requirements.
 - No disbursement will be made by the CITY unless all required reports (including beneficiary, performance, financial and narrative reports, and source documents for CDBG-funded expenditures) have been submitted and approved by CITY staff. Payment may be withheld pending receipt and approval of all required documentation.

VIII. SUSPENSION OR TERMINATION:

- Suspension or Termination for Cause by CITY: The SUBRECIPIENT understands and agrees that if SUBRECIPIENT materially fails to comply with any or all provisions of this Agreement, the CITY may in its sole discretion suspend or terminate this Agreement.
 1. Material non-compliance includes, but is not limited to, the following:
 - i. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time.
 - ii. Failure, for any reason, of the SUBRECIPIENT to fulfill in a timely and proper manner its obligations under this Agreement.
 - iii. Ineffective or improper use of funds provided under this Agreement; or
 - iv. Submission of reports by the SUBRECIPIENT to the CITY which are late, or incorrect or incomplete in any material respect.
 2. As a result of material non-compliance, the CITY may take one or more of the following actions:
 - i. Temporarily withhold cash payments pending correction of the deficiency by the SUBRECIPIENT. More severe enforcement action may be undertaken by the CITY if the deficiency is not corrected.
 - ii. Disallow (that is, deny both use of funds and matching credit for all or part of the cost of the activity or action not in compliance.
 - iii. Wholly or partially suspend or terminate the current award for the SUBRECIPIENT's program.
 - iv. Withhold further awards for the program; or
Take other remedies that may be legally available including, but not limited to, seeking compensatory and/or liquidated damages for breach of this Agreement, or injunctive or equitable relief in any court of competent jurisdiction.
- Termination for Convenience by CITY or SUBRECIPIENT: Either the CITY or the SUBRECIPIENT may terminate the award of funds under this Agreement in whole or in part if either determines that the goals indicated in the SUBRECIPIENT's proposal cannot be met. Termination is effected by the initiating party upon receipt of written notification by the other party setting forth: (1) the reasons for termination; (2) the effective date of termination; and (3) the portion to be terminated, in the case of partial termination. In the case of partial award termination, if the CITY in its sole discretion determines that the remaining portion of the award will not accomplish the purposes for which the award was made, it may terminate the entire award.

IX. REGULAR MEETING REQUIREMENT: SUBRECIPIENT agrees to meet on a regular or as-needed basis with the designated staff member of the CITY's Community Development Department to discuss general and/or specific issues of this Agreement and to review the required reports. Furthermore, SUBRECIPIENT agrees to cooperate fully in any monitoring program, including on-site monitoring, developed, implemented or conducted by the CITY or by HUD.

X. RECORD REQUIREMENTS: SUBRECIPIENT shall provide the CITY, HUD, the Inspector General of the United States or any of their duly authorized representatives, access to any books,

documents, papers and records of the SUBRECIPIENT which pertain to the CDBG-funded program for the purpose of monitoring, making audits, examinations, excerpts, transcripts and photocopying.

- SUBRECIPIENT shall be required to maintain all required records for five (5) years after the SUBRECIPIENT's final audit and program close out by the CITY. SUBRECIPIENT shall establish and maintain a project file that contains the following sections:
 1. General project correspondence and related items.
 2. Financial source documentation and associated transactional documentation.
 3. Procurement procedures and associated documents.
 4. Compliance with applicable State and Federal regulations.
 5. Program reports.
 6. Documentation of persons benefiting from grant activities, including race/ethnicity and income to substantiate achievement of the CDBG National Objective of benefiting primarily persons of low and moderate income.
 7. Personnel actions.
 8. Acquisition and disposition of property.
- The records which, at a minimum, must be maintained are as follows:
 1. Financial Records: The SUBRECIPIENT shall, at a minimum, maintain the following records for each grant received under separate agreement from the CITY:
 - i. Cash Receipts Register: For recording of funds received in connection with the grant program.
 - ii. Cash Disbursements Register: For recording disbursement of funds from the agency's CDBG account(s). All disbursements must be supported by appropriate documentation (e.g.: payroll records, invoices, contracts, etc.) demonstrating the nature and use of each payment and showing approval of the program director or other authorized official. In addition, the SUBRECIPIENT agrees to provide to the CITY such financial reports and additional source documentation as the CITY may reasonably require and to comply with such reasonable additional financial control procedures as may be required to be retained in files maintained by the SUBRECIPIENT.
Payroll Records: A basic time and activity tracking system shall be maintained to substantiate the services and staff time charged to the project. This should include time sheets documenting each person's total time and time charged against the grant; time sheets must be signed by both the employee and authorized supervisor of the employee.
 2. Equipment Records: A record shall be maintained for each item of equipment acquired for the Program. Equipment is defined as tangible personal property (including information technology systems) which has a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$500. The records shall include: (1) a description (including model and serial number) of the property; (2) the date of acquisition; and (3) the acquisition cost (showing the percentage of the total costs paid for out of this Grant.) Such equipment records are necessary for HUD recording requirements. However, SUBRECIPIENT acknowledges that this recording requirement does not indicate that the CITY will

pay for equipment. The CITY does not provide funds for equipment purchases, including information technology systems.

3. **Indirect Costs Records:** A record shall be kept of all indirect costs, per HUD requirements. Indirect costs are costs incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. However, SUBRECIPIENT acknowledges that indirect costs shall not be covered by funds provided by the CITY.

XI. REPORTING REQUIREMENTS: The SUBRECIPIENT agrees to provide the CITY's Community Development Department with regular reports described below per the schedule in Appendix E, and any other reports which may be required by the CITY's CDBG Program for compliance under this Agreement. This includes reporting on performance measures, as outlined in §200.301 of the Omni Circular. Such performance measures shall be decided upon by the SUBRECIPIENT and the CITY'S CDBG Grant Administrator, based on the requirements outlined by HUD for the category of eligible activities that the SUBRECIPIENT'S program engages in. These categories have been described within HUD's "Community Development Block Grant Program: Guide to National Objectives & Eligible Activities for Entitlement Communities," and the Guide shall be incorporated hereto by reference, and is attached as Appendix C.

SUBRECIPIENT shall use OMB-approved information collection standards, when providing financial and performance information. The SUBRECIPIENT shall provide financial data, and its relation to performance accomplishments, of the Federal award.

SUBRECIPIENT agrees to provide the CITY with documents pertaining to: (1) procedures; (2) copies of all contracts and subcontracts for work financed in whole or in part with assistance provided under this Agreement; and (3) (if applicable) regularly updated schedule of program activities.

- **REPORTING:** Reports shall be submitted to staff via email by the SUBRECIPIENT throughout the term of the Program. **See Appendix E for report due dates.** All reports and required attachments may be viewed by members of the Community Development Department.
 1. The CITY reserves the right to withhold any of the SUBRECIPIENT's scheduled payments until such time as the CITY receives the SUBRECIPIENT's financial progress and performance reports.
 2. Improperly prepared reports will not be accepted. Subsequent Grant payments may be held pending receipt of accurate information together with any required source documentation. Upon receipt of improperly prepared or erroneous reports, field audit procedures may be initiated to evaluate the financial management, control and record keeping procedures utilized by the SUBRECIPIENT. In addition, the CITY may require a meeting with the Executive Board of the SUBRECIPIENT to correct the situation.
 3. SUBRECIPIENT understands that a pattern of late, improper, or erroneous reporting could be grounds for termination of this Agreement at the CITY's sole discretion.

4. The CITY reserves the right to make appropriate adjustments for any funds previously paid out by the CITY but unexpended by the SUBRECIPIENT.
5. **Reports will be submitted via email and shall consist of the following:**
 - i. Beneficiary Demographic data: Client statistics (i.e., number of DeKalb residents served, beneficiary race/ethnicity and incomes) for the report period.
 - ii. Program Accomplishments and Narrative: Indicating progress against program goals as outlined in Appendix A, and additional information in narrative format that elucidates program accomplishments and outlines any unanticipated results.
 - iii. Financial Report: Indicating the budgeted expenses and revenues consistent with the 2017 appropriation for the grant Program as shown in Appendix B and the actual revenues and expenditures for the period covered by the report.
 - iv. Supporting documentation: **All Program expenditures charged to the CDBG Grant shall be supported with source documentation.** Documentation may include copies of paid invoices, receipts, and time sheets signed by each employee and supervisor paid with CDBG funds. Other documentation may be required by the CITY to document the amount expended in the report period.

XII. ANNUAL AUDIT: The CITY requires that all SUBRECIPIENTS prepare and submit to the CITY an audit of the financial records of the SUBRECIPIENT pertaining to the receipt and use of CDBG funds as required by the Omni Circular. If the SUBRECIPIENT receives federal funds from sources other than the CITY's CDBG program, a combined single audit is permissible, provided said audit clearly identifies the amount of CITY CDBG funds received, the amount expended and encumbered, and the purposes of the expenditures. The CITY shall have the right to review and modify the scope of said audit. Said audit of CDBG funds shall encompass and be limited to the term of this Agreement. SUBRECIPIENT is responsible for clearly identifying and accounting for funds received and expended during separate program years; that is, an individual audit must distinguish expenditures and encumbrances made against funds received under separate Grant Agreements, particularly if the SUBRECIPIENT and the CITY operate under different fiscal years.

XIII. ALTERNATIVE FUNDING REPORTING REQUIREMENT: SUBRECIPIENT shall promptly notify the CITY if the SUBRECIPIENT receives funding (full or partial) that is incremental to the Program budget as shown in Appendix B from any and all sources for the performance of activities outlined under this Agreement. The SUBRECIPIENT further understands that the amount granted by the CITY may be reduced by the amount of such alternative funding.

XIV. REVISION OF BUDGET AND PROGRAM PLANS: The SUBRECIPIENT shall obtain written permission from the CITY staff member prior to any change in the approved budget or program plans following Omni Circular §200.308(C) (increase or decrease) of ten percent (10%) of the line item's budget or \$500, whichever is less, to any account under the SUBRECIPIENT's line item budget which is attached hereto and identified as Appendix B. In order for the CITY to approve such a request, SUBRECIPIENT's written request shall contain, at a minimum: (1) the reason and justification for the change; (2) the amounts to be changed; and (3) a description of which line items are affected. Changes made without the CITY's prior approval may result in non-reimbursement of expenditures from those affected line items.

- XV. NON-DISCRIMINATION:** SUBRECIPIENT agrees that no person shall, on the grounds of race, color, religion, national origin, sex, sexual orientation, gender identity, marital status, age, source of income or physical or mental disabilities, be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity for which the SUBRECIPIENT receives financial assistance from or through the CITY.

SUBRECIPIENT agrees to comply with: Title VI of the Civil Rights Act of 1964 (P.L. 88-352); Title VII of the Civil Rights Act of 1968 (P.L. 90-284); Section 104(b) and Section 109 of the Housing and Community Development Act of 1974, as amended; Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended, the Age Discrimination Act of 1975, as amended; Executive Order 11246, as amended and Executive Order 11063 as amended.

SUBRECIPIENT agrees to include a statement of its non-discrimination policy in any printed or electronic information released to the public regarding Program activities.

- XVI. EQUAL OPPORTUNITY POLICY/AFFIRMATIVE ACTION PLAN/CURRENT POLICY SETTING BODY INFORMATION:** The SUBRECIPIENT shall ensure the following documents have been provided to CITY staff:

- A copy of its policy on equal opportunity employment and a copy of its most current Affirmative Action Plan.
- The names, addresses and professional affiliations of the current members of the Board of Directors or policy-setting body.

- XVII. WORKERS' COMPENSATION:** The SUBRECIPIENT shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

- XVIII. INDEMNITY:** SUBRECIPIENT hereby assumes liability for and agrees to protect, hold harmless and indemnify the CITY and its assigns, officers, directors, employees, agents and servants from and against any and all liabilities, obligations, losses, damages, penalties, judgments, settlements, claims, actions, suits, proceedings, costs, expenses and disbursements, including legal fees and expenses, of whatever kind and nature, imposed on, incurred by or asserted against the CITY, its successors, assigns, officers, directors, employees, agents and servants, in any way relating to or arising out of any of the following or allegations, claims or charges of any of the following:

- The use or application of the Grant proceeds.
- The violation by the SUBRECIPIENT of any of its covenants or agreements under the Agreement.
- Any tort or other action or failure to act done in connection with the performance or operation of the Program.
- Any act or failure to act of any officer, employee, agent or servant of the SUBRECIPIENT.
- Any injury to any person, loss of life, or loss or destruction of property in any way arising out of or relating to the performance or operation of the Program.

The CITY agrees to notify the SUBRECIPIENT in writing of any claim or liability which the CITY believes to be covered under this paragraph. The CITY shall tender, and SUBRECIPIENT shall promptly accept tender of, defense in connection with any claim or liability in respect of which

SUBRECIPIENT has agreed in writing that based on the claim or liability the CITY is entitled to indemnification under this paragraph; provided, however, that the counsel retained by SUBRECIPIENT to defend the CITY shall be satisfactory to the CITY; and that the CITY shall be kept fully informed of the status of the proceeding. In the event that the SUBRECIPIENT, within ten (10) days after receipt of notice from the CITY of a claim or liability which the CITY believes to be covered under this paragraph, fails to advise the CITY in writing that the SUBRECIPIENT agrees that the CITY is entitled to indemnification under this paragraph based on the claim or liability, the CITY, without waiving or prejudicing any claim or right it may have to indemnification, under this paragraph (including the recovery of legal fees and expenses), may retain its own counsel and present its own defense in connection with such claim or liability.

The CITY shall not settle or compromise any claim, suit, action or proceeding in respect of which the SUBRECIPIENT has agreed in writing that the CITY is entitled to indemnification under this paragraph. Notwithstanding anything in the Agreement to the contrary, the indemnities contained in this paragraph shall survive the termination of the Agreement.

XX. INSURANCE AND BONDING: SUBRECIPIENT shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to any CDBG cash advances. SUBRECIPIENT shall comply with the bonding and insurance requirements of the Omni circular 200.310 and 200.325, Insurance and Bonding requirements.

XX. NON-PARTICIPATION BY CERTAIN PERSONS: SUBRECIPIENT agrees to exclude the following persons from participation in any aspect of this Agreement:

- SUBRECIPIENT agrees to not allow any member of, or delegate to, the United States Congress any share or part of this Agreement or to allow any benefit to arise from same.
- SUBRECIPIENT agrees that no officer, employee, designee, agent or consultant of the CITY or the SUBRECIPIENT or member of the governing body of the CITY who exercises any functions or responsibilities with respect to the CITY's CDBG program during his tenure or for one (1) year thereafter, will have any direct or indirect interest in any contract or subcontract, or the proceeds thereof, for the work to be performed in connection with the Project assisted under this Agreement. The SUBRECIPIENT shall incorporate or cause to be incorporated in all such contracts or subcontracts a provision prohibiting such interest in conformance with the provisions of and pursuant to the purposes of this section. The provisions of 24 CFR § 570.611, "Conflict of Interest" shall apply to the SUBRECIPIENT.
- SUBRECIPIENT further agrees to maintain written standards of conduct covering conflicts of interest, as outlined in the Omni Circular § 200.318(c)(1) & (2). These standards of conduct will include language stating that no employee, officer, or agent will participate in the selection, award or administration of a contract supported by CDBG funds, if that employee, officer or agent has a real or apparent conflict of interest. Conflicts of interest arise if the employee, officer, agent, the immediate family member of such a person, the partner of such a person, or an organization which employs such a person or is about to employ such a person, has any financial or other interest in or may gain a tangible personal benefit from a firm considered for a contract. Such officers, employees or agents of the SUBRECIPIENT may not solicit nor accept anything of monetary value from contractors or subcontractors, unless it is an unsolicited gift of nominal value which

would in no way influence the recipient to engage in conduct which would amount to a conflict of interests. The written standards shall also include standards of conduct covering organizational conflicts of interest, in which the SUBRECIPIENT may be unable or appears to be unable to be impartial in conducting procurement actions due to relationships between the SUBRECIPIENT and relationships with a parent company, affiliate, or subsidiary organization. The written standards provided by the SUBRECIPIENT will include disciplinary actions to be applied for violations of such standards.

- Copeland "Anti-kickback" Act. – Any SUBRECIPIENT paid in full or part with CDBG funds will comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3) that states whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined under this title or imprisoned not more than five years, or both. Though CDBG funds shall not be used to pay for the construction, prosecution, completion or repair of buildings, the SUBRECIPIENT affirms that by accepting CDBG funds, the SUBRECIPIENT will comply with the Copeland "Anti-kickback" Act.

XXI. PROGRAM INCOME: Program income shall herein be defined as gross income received by the SUBRECIPIENT directly derived or generated from the use of CDBG funds. Program income includes, but is not limited to:

- Fees for services performed,
- Use or rental of real or personal property acquired under Federal awards,
- The sale of commodities or items fabricated under a Federal award,
- License fees and royalties on patents and copyrights,
- And principal and interest on loans made with Federal award money.

SUBRECIPIENT agrees that, unless otherwise stated in this section, the SUBRECIPIENT shall follow the program income requirements as outlined in § 200.307 of the Omni Circular.

SUBRECIPIENT understands and agrees that all program income shall be the property of the CITY, which shall have the exclusive right to determine the use and disposition of said income, except for fees for services which are used as part of the operating budget. However, such exempt fees must be small so as not to prevent the participation of Low and Middle-Income participants. SUBRECIPIENT will remit all other said income to the CITY. Said remittance shall be submitted annually and accompany the Final Report.

SUBRECIPIENT acknowledges that interest earned on advances of Federal funds, rebates, credits and discounts do not count as program income.

Program income is to be: (check one)

_____ 1) returned to the CITY at times determined by the CITY; or

 X 2) retained by SUBRECIPIENT to undertake the following activities:

Provision of the Summer Meals Program for the children of University Village

If retained by SUBRECIPIENT, all activities undertaken with the use of said income will be governed by all provisions of this Agreement. All program income, regardless of source, shall be substantially disbursed for any or all eligible CDBG activities undertaken by the SUBRECIPIENT before additional cash payments are made to the SUBRECIPIENT from the CITY (pursuant to CDBG regulations at 24 CFR Sec. 570.504 (c)). Any income on hand when this Agreement expires or received after such expiration shall be paid to the CITY upon request.

XXII. RETURN OF UNEXPENDED FUNDS: SUBRECIPIENT agrees to return to the CITY any and all unexpended and/or unencumbered grant funds upon the completion or termination of the Program:

- If the work of the program cannot be completed, or if SUBRECIPIENT ceases to function as an operating entity, SUBRECIPIENT agrees to return to the CITY any and all unexpended and/or unencumbered grant funds.
- Within thirty (30) days after the closing date of this Agreement, the SUBRECIPIENT shall submit to the CITY expenditure reports and documentation of all expenses or encumbrances during the time period covered by this Agreement. The CITY will then compare these expenditures with the amount of disbursements issued to the SUBRECIPIENT by the CITY. Disbursement of any final payment, if any, under the Agreement shall not be made until such a comparison has been completed to the CITY's satisfaction.
 1. If said expenditures and encumbrances are greater than the disbursements made to the SUBRECIPIENT, the CITY will issue a check to the SUBRECIPIENT for an amount equal to this difference, up to the amount of the authorized grant set forth in this Agreement.
 2. If said expenditures and encumbrances are less than the disbursements, the CITY shall withhold the difference from any final payment to the SUBRECIPIENT. If after withholding any such difference, the expenditures and encumbrances are still less than the disbursements, the SUBRECIPIENT shall promptly pay to the CITY a check for the difference of these sums.
 3. Funds paid to SUBRECIPIENT in excess of the amount to which the SUBRECIPIENT is finally determined to be entitled constitute a debt to the CITY. If not paid as stipulated in the preceding paragraphs, the CITY may take other action permitted by law.
- A final adjustment will be made to reconcile with the completed audit or Final Grant Report of CDBG expenditures within thirty (30) days of the submission of audit to the CITY. Subsequent grant payments or awards will be withheld until audit or grant report is completed for the current year. Only the City Manager can release funds if audit or grant report is not reconciled.

XXIII. INDEPENDENT CONTRACTOR: SUBRECIPIENT shall be and act as an independent contractor and not as a partner, joint venturer, or agent of the CITY and shall not bind nor attempt to bind CITY to any contract. SUBRECIPIENT is an independent contractor and is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including, but not limited to, Worker's Compensation Insurance. SUBRECIPIENT agrees to defend, indemnify and hold the CITY harmless from any and all claims, damages, liability, attorney's fees and expenses

on account of: (1) a failure or an alleged failure by SUBRECIPIENT to satisfy any such obligations; or (2) any other action or inaction of SUBRECIPIENT.

ADDITIONAL REGULATIONS: As a non-governmental entity, SUBRECIPIENT shall comply with the regulations, policies, guidelines, requirements and standards of federal OMB 2 CFR Chapter I, Chapter II, Part 200, et al, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements of Federal Awards; Final Rule" (Omni Circular Omni Circular, as specified in this paragraph:

- Subpart B – "General";
- Subpart C – "Pre-Federal Award Requirements and contents of Federal Awards," except for §§ 200.203 Notices of funding opportunities, 200.204 Federal awarding agency review of merit of proposals, 200.205 Federal awarding agency review of risk posed by applicants, and 200.207 Specific conditions, which are required only for competitive Federal awards,
- Subpart D – "Post Federal Award Requirements Standards for Financial and Program Management," except for:
 1. Section 200.305 "Payment." The CITY shall follow the standards of paragraph 85.20(b)(7) and 85.21 in making payments to SUBRECIPIENT.
 2. Section 200.306, "Cost Sharing and Matching".
 3. Section 200.307, "Program Income." In lieu of paragraph 200.307, SUBRECIPIENT shall follow CDBG program regulations at 570.504 regarding Program Income.
 4. Section 200.308, "Revision of Budget and Program Plans";
 5. Section 200.311, "Real Property." In lieu of 200.311, CDBG SUBRECIPIENT shall follow CDBG program regulations at 570.505, Use of Real Property.
 6. Section 84.34(g) "Equipment." In lieu of the disposition provisions of paragraph 84.34(g), the following applies:
 - i. In all cases in which equipment is sold, the proceeds shall be program income (prorated to reflect the extent to which CDBG funds were used to acquire the equipment); and
 - ii. Equipment not needed by the SUBRECIPIENT for CDBG activities shall be transferred to the CITY for the CDBG program or shall be retained after compensating the recipient.
 7. Section 84.51(b), (c), (d), (e), (f), (g), and (h), "Monitoring the Reporting Program Performance";
 8. Section 84.52, "Financial Reporting";
 9. Section 84.53(b), "Retention and Access Requirements for Records," applies with the following exceptions:
 - i. The retention period referenced in paragraph 84.53(b) pertaining to individual CDBG activities shall be five years following grant close out; and
 - ii. The retention period starts from the date of submission of the annual performance and evaluation report, as prescribed in 24 CFR 91.520 in which the specific activity is reported on for the final time rather than from the date of submission of the final expenditure report for the award.
 10. Section 84.61 "Termination". In lieu of the provision of 84.61, SUBRECIPIENT shall comply with 570.503(b)(7) Suspension and Termination; and
- Subpart D - "After-the Award Requirements", except for paragraph 84.71, "Closeout Procedures."

XXIV. COMPLIANCE WITH FIRST AMENDMENT CHURCH/STATE PRINCIPLES: SUBRECIPIENT agrees to comply with the First Amendment Church/State Principles which state that CDBG funds may not be used for religious activities or provided to primarily religious entities for any activities, including secular activities. The following restrictions and limitations apply to the use of CDBG funds:

- As a general rule, CDBG funds may be used for eligible public services to be provided through a primarily religious entity, where the religious entity enters into an agreement with the CITY that, in connection with the provision of such services:
 1. It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion.
 2. It will not discriminate against any person applying for such public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion.
 3. It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services.
- Where the public services provided under paragraph a of this section are carried out on property owned by the primarily religious entity, CDBG funds may also be used for minor repairs to such property which are directly related to carrying out the public services where the cost constitutes in dollar terms only an incidental portion of the CDBG expenditure for the public services.

XXV. CERTIFICATION: To the best of its knowledge or belief, the SUBRECIPIENT certifies that:

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;
- If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub-grants, agreements) and that all sub awardees shall certify and disclose accordingly, and
- This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering this Agreement pursuant to Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

XXVI. SEVERABILITY: If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

XXVII. SECTION HEADINGS AND SUBHEADINGS: The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XXVIII. WAIVER: The CITY's failure to act with respect to a breach by the SUBRECIPIENT does not waive the CITY's right to act with respect to subsequent or similar breaches. The failure of the CITY to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XXIX. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the CITY and the SUBRECIPIENT for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the CITY and the SUBRECIPIENT with respect to this Agreement.

XXX. NOTICES: All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon delivery, if delivered personally, or on the fifth (5th) day after mailing if sent by registered or certified mail, return receipt requested, first-class postage prepaid, as set forth below. Faxed or emailed communications are a convenience to the parties, and not a substitute for personal or mailed delivery.

- if the CITY, to: Bill Nicklas
City Manager
City of DeKalb
164 East Lincoln Highway
DeKalb, Illinois 60115
Phone: (815) 748-2371
Email: bill.nicklas@cityofdekalb.com
- if the SUBRECIPIENT, to: Ellen Rogers
Executive Director
Voluntary Action Center
1606 Bethany Road
Sycamore, IL 60178
Email: erogers@vacdk.com

XXX. CHANGES TO AGREEMENT: The CITY and the SUBRECIPIENT agree that any and all alterations, variations, modifications, or waivers of provisions of this Agreement shall be valid only when they have been reduced to writing, duly signed by both parties and attached to the original of this Agreement.

IN WITNESS, WHEREOF, the parties have executed this Agreement in duplicate and the Effective Date is the date that the City signs the document.

CITY OF DEKALB

SUBRECIPIENT (DUNS Number: 168874634)

BY: 
Signature

BY: 
Signature

NAME: Jerry Smith

NAME: Ellen Rogers

TITLE: Mayor

TITLE: Executive Director

DATE: 7-13-2020

DATE: 8-25-2020

Appendix A

SUBRECIPIENT Program Description and Outcome Measures

Saturday Transportation Program

The City of DeKalb shall provide funding as contemplated by the attached Exhibit B, Program Budget, in the amount of \$14,000.00 for Program Year 2020 ("PY20"), to the Voluntary Action Center for the Summer Meals Program described below, subject to VAC's compliance with the terms of this Agreement and its appendices.

VAC shall be responsible for providing services (as described below) over the period constituting PY20. The services provided herein will be Summer Meals Program Services to the children of University Village. VAC will administer all tasks in the provision of the aforementioned public services in compliance with all applicable Federal, state and local rules and regulations, and in a matter satisfactory to the City.

- 1) 100% of persons served through the program funded by the City shall be Low-Moderate Income ("LMI") clientele based upon compliance with one of the two following standards:
 - a. Participants may be LMI based upon financial data utilizing the most recent available LMI standards available from the Department of Housing and Urban Development ("HUD"). VAC shall utilize the application form attached hereto as Exhibit 1 (or a replacement to this form that is approved by the City), to verify LMI status of program participants. VAC shall review financial information for the program participants to establish the IRS or Section 8 definition of income and obtain the necessary documentation for participants to verify compliance with LMI thresholds described above. The verification and the documentation provided for participants to certify LMI status shall be subject to review by the City at any time upon request. Additionally, VAC shall provide a written affidavit certifying compliance with this standard.
- 2) The location at which services are provided (as funded under this Agreement) shall be University Village. University Village is a Project-based Section 8 funded facility. Residents of this property are certified low/moderate income per HUD standards. Summer Meals Program participants shall be provided with meals and snacks in accordance with the details provided in this agreement. VAC shall provide a written affidavit certifying compliance with this requirement.
- 3) The services provided by VAC, as funded under this Agreement, shall constitute the subrecipient providing public services that provide summer meals to program participants to increase access to healthy food and nutrition services during the summer months when free or reduced lunches are not available because school is closed.
- 4) Funds shall be utilized to provide for \$14,000.00 of the cost of providing summer meals to the children of University Village, with the portion of the cost funded hereunder not exceeding such portion of the total cost of meal services that are attributable to LMI qualified program participants. VAC shall provide the City with a detailed expense accounting providing a description of the total cost of services provided. VAC shall also provide the City with an affidavit evidencing compliance with this requirement. Detailed financial information is provided on Appendix B hereto.

- 5) VAC shall provide the City with an annual budget and financial statements evidencing the total agency budget and the payment of incurred expenses consistent therewith. In the event that the incurred expenses are less than the projected budget, funding shall not be reduced under this Agreement, provided that VAC provides services in compliance with the minimum requirements contained herein. VAC shall also provide the City with an affidavit evidencing compliance with this requirement.
- 6) VAC shall annually provide not less than 70 LMI residents of University Village with meals through the Summer Meals Program. All participants shall be residents of the City of DeKalb. VAC shall provide the City with an affidavit evidencing compliance with this requirement.
- 7) VAC may bill the actual direct costs of the services provided by the Subrecipient to be used for the provision of summer meals for authorized participants from low- and moderate-income families during the program, for a total of \$14,000.00 per grant year to be paid in the summer months when the free or reduced lunch program provided by local schools is not available.

Appendix B

Program Budget

The total budget for services provided by VAC (as relating to the services funded hereunder) is \$75,300 for the Summer Meals Program. The portion of such costs funded by the City under this agreement shall be \$14,000.00, which constitutes 18.59% of the cost of the services provided by this project. This funding will be used as a portion of the local match for USDA funding for this service. USDA funds comprise 73.44% of project costs. Community giving will cover the remaining 7.97% of costs. Due to the financial limitations of USDA funding and the total cost to provide this program, this service will be discontinued without the contribution of City of DeKalb CDBG funds.

Appendix C

Community Development Block Grant Program: Guide to National Objectives & Eligible Activities for Entitlement Communities

Appendix D

SUBRECIPIENT Procurement Guidelines

Voluntary Action Center of DeKalb County

Procurement Policies and Procedures

Last Revised: September 9, 2015

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Voluntary Action Center of DeKalb County (VAC) Procurement Policies and Procedures

1.0 Statement of Purpose

This policy implements the procurement requirements of the Illinois Department of Transportation under the section 5311 program. The policy governs the actions of the Voluntary Action Center of DeKalb County and actions that the Voluntary Action Center of DeKalb County may take on behalf of DeKalb County government related to the Section 5311 grant in the administration of its third party contracting actions.

A contract is defined as a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the VAC or DeKalb County government for actions that the VAC may take on behalf of DeKalb County government related to the Section 5311 grant to pay for them. Contracts include bilateral instruments, awards and notices of awards, job orders or task assignment letters issued under basic ordering agreements, letter contracts, orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance and bilateral contract modifications.

The parties to a contract must possess the legal capacity to enter into the contract, and they must assent to the terms of the contract. The terms of the agreement must not require the performance of an illegal act by the parties. Contracts may be either oral or written in form.

Federal Transit Administration procedures are defined in FTA Circular 4220.1F entitled "Third Party Contracting Guidelines." IDOT procedures are outlined, in part, in the grant agreement and in the Section 5310/5311 Grant Management Manual, Section 3/6.

1.1 Provider's Responsibilities

It is the provider's responsibilities to assure that any contract/purchase for a capital item (including E-Commerce, purchase orders, credit card charges, etc.) is performed by the authorized representative of the Section 5311 grantee (DeKalb County, VAC as the pass through operator). Any other party acting on behalf of the grantee (including a provider that is not a grantee) must get written approval and authorization of the grantee prior to initiating any capital purchase.

1.2 Length of Contract

All purchase agreements or contracts must not include a period of performance exceeding five years exclusive of options.

1.3 Prohibition Against Geographic Preference

All procurements shall be conducted in a manner that prohibits the use of statutorily or administratively imposed geographical preference in the evaluation of bids or proposals. However, geographic location may be a selection criterion in procurements for architectural and engineering services provided its application leaves an appropriate number of qualified firms to compete for the contract.

1.4 Responsive Bidder

A responsive bidder is a contractor, supplier or vendor who meets all the basic procurement specification requirements.

1.5 Responsible Bidder

A responsible bidder is a contractor, supplier or vendor who possess the ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as the firm's integrity, compliance with public policy, record of past performance, and financial and technical resources.

1.6 "Buy America"

"Buy America" requirements shall be followed for all applicable federally funded projects (*i.e.* Section 5311 operating assistance). The Buy America requirements apply to all contracts for rolling stock, steel, iron, or manufactured products with a value greater than \$100,000.

1.7 Metric System of Measurement

VAC will accept, to the extent practicable and economically feasible, products and services that are dimensioned in the metric system of measurement.

1.8 Products that Conserve Natural Resources

VAC will give preference, to the extent practicable and economically feasible, for products and services that conserve natural resources, protect the environment and are energy efficient.

2.0 Code of Conduct

It is the policy of the VAC that its employees and members of the governing board observe the highest standards of ethics and that where an actual or seemingly apparent conflict of interest or breach of fiduciary duty or abuse of official position may arise or has arisen in accordance with Section 2.1 and Section 2.2.

All invoices/requisitions for purchases or services are to be sent to the grantee in the name of the grantee. All payments for such purchases are to be made by the grantee.

2.1 Personal Conflicts of Interest

2.1.1 Applicability

VAC prohibits personal conflicts of interests in the conduct of all procurements undertaken by the organization. This policy is applicable to include conflicts arising from the selection of a firm for award when any of the following has a financial or other interest in the firm selected:

- 1 The employee, officer, agent, or board member,
- 2 Any member of his/her immediate family,
- 3 His or her partner, or
- 4 An organization that employs, or is about to employ, any of the above

2.1.2 Prohibited Actions – Conflicts of Interest

In the event that any of the above named individuals has:

- 1 a direct or indirect financial interest in any contract with the VAC;
- 2 a fiduciary relationship (a position of trust) with an individual, partnership, firm or corporation seeking to contract with the VAC or provide materials or labor thereto, such person shall, regardless of the contract amount; or
- 3 a special or unique interest where personal loyalty to a particular interest group or individual may have a bearing on a subject of discussion or vote by the VAC Board of Directors;

Then the individual shall be required to: (a) state on the record the nature of his/her conflict of interest; and (b) not communicate either formally or informally with any board or management employee with respect to the awarding of such contract.

2.1.3 Prohibited Actions – Outside Employment with Firms Doing Business with or Seeking Business with VAC

Employees and other individuals named in Section 2.1.1 may not accept employment opportunities with an individual, partnership, firm or corporation seeking to contract with the VAC nor be in the employ of a firm currently engaged in seeking contracting opportunities with VAC.

2.1.4 Solicitation/Acceptance of Gifts, Gratuities, and Favors

No employee or other individual named in Section 2.1.1 shall be permitted to solicit or accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts.

2.1.5 Penalties for Violations of Personal Ethical Standards in Procurement

Failure of employees in disclosing conflicts of interest as described above shall result in disciplinary action in accordance with the written standards of VAC. These actions may include discipline leading up to and including termination. In the event VAC determines the ethical breach to be a violation of Federal or state law, VAC will contact the appropriate authorities for civil or criminal action.

In the event a member of the board of directors violates the standards of conduct in this section, the matter will be referred to the Board for disposition. Disciplinary actions may lead action up to and including removal from the board.

Any contract awarded following disclosure of an ethical violation will be reviewed to determine whether the violation resulted in an unfair competitive advantage for the selected firm. The contracting official shall have the right to terminate such contracts for convenience in the event of such disclosures.

3.0 Methods of Procurement

VAC will in its procurement planning determine the most appropriate method of procurement for all purchases of goods and services. The agency will follow adopted procedures in all procurement actions. Prior to every procurement, VAC will determine the most appropriate method of procurement. The following methods are permitted.

The VAC Executive Director will ensure that all procurements are designed to avoid purchase of unnecessary or duplicative items or examining with the primary procurement officer should consolidate or break out items in the good or service to be purchased to obtain a more economical process. When purchasing items available at lease, VAC will conduct an analysis of purchase costs versus lease costs to ensure the most economical approach.

3.1 Micro-Purchases

This method of procurement may be used for all purchases where the agency's price estimate for the goods or services to be procured is under \$3,000. Micro purchases may be made

without obtaining competitive quotations so long as the price is fair and reasonable as evidenced by minimal supporting documentation (*i.e.* catalogue or price lists). Micro purchases are exempt from the Buy America Requirements. Micro-purchases will make all efforts to equitably distribute such purchases among qualified suppliers in the local area.

Purchases will not be split to avoid the requirements for competitive quotes for purchases above the threshold. VAC shall maintain written documentation on micro-purchase procurements. This documentation shall consist of:

- 1 a determination that the price is fair and reasonable; and
- 2 how this determination was derived.

3.2 Small Purchases

Small purchases are relatively simple and informal purchases involving the acquisition of services, supplies or other property that cost between \$3,000 and \$99,999.

In all small purchases, VAC shall solicit either oral or written quotes from a minimum of three sources. When the vendor list involves multiple sources for a small purchase, purchases should be equitably distributed among qualified suppliers in the local area

Oral quotes shall be documented in writing by the appropriate staff on a standard quotation form adopted by VAC. Quotation forms shall be part of the permanent file documentation for all small purchases. Written quotations may be obtained electronically (e-mail), via facsimile, through the mail, or obtained directly from the vendor. For each quote, either obtained orally or in writing, the following information will be obtained:

- 1 Name, address, telephone number
- 2 Description of the offered item(s)
- 3 Unit price and total price
- 4 Discount terms
- 5 Delivery terms
- 6 DBE information, if applicable
- 7 Person who provided the quote
- 8 Time and date of the quote

3.3 Competitive Procurement Methods

Competitive procurement methods include sealed bids (sometimes referred to as an "Invitation For Bid (IFB)) and competitive proposals (sometimes referred to as a Request For Proposal (RFP)). Sealed bid is the generally preferred method of procurement for equipment and construction, provided the following conditions can be met:

- 1 A complete, adequate, and realistic specification or purchase description is available;
- 2 Two or more responsible bidders are willing and able to compete effectively for the business;
3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price; and no discussion with bidders is needed. If these conditions cannot be met, the competitive proposal method will be used.

3.3.1 Sealed Bids

3.3.1.1 General Conditions

When VAC determines that conditions in Section 3.3 can be met, the agency will follow these procedures in the conduct of the procurement:

- 1 The IFB will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time to prepare bids prior to the date set for opening the bids. Generally, a minimum of thirty (30) days will be provided unless the VAC Board of Directors determines that less time is required. In no instance shall the period of advertisement be less than 14 days.
- 2 The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services sought in order for the bidder to properly respond.
- 3 All bids will be publicly opened at the time and place prescribed in the invitation for bids.
- 4 A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. When specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
- 5 Any or all bids may be rejected if there is a sound documented business reason.
- 6 Prior to award to the selected bidder, a price analysis should be conducted to verify that the price quoted is fair and reasonable.

In order to preserve the integrity of the competitive bid system, after bids have been opened, award will be made within thirty (30) days to the responsible bidder whose bid conforms to the IFB and whoever will be the most advantageous to VAC considering only price and price related factors included in the invitation, unless there is a compelling reason to reject all bids and cancel the invitation.

VAC will make every effort to anticipate changes in the solicitation prior to the date of bid opening and to notify prospective bidders of any modification or cancellation through a formal written amendment to the solicitation, thereby permitting bidders to change their bids without the exposure of bid prices.

3.3.1.2 Bid Preparation

The bid documents will identify the nature of the procurement, the agency name, and the contact person(s) and contain simple, clear instructions for preparing an offer. The IFB will clearly state the time and manner for submitting the offer and the length of time for which the offer must remain firm (not subject to withdrawal).

3.3.1.3 Bid Contents

The IFB will be based on a clear and accurate description of the technical requirements for the material, product, or service to be procured. This is in keeping with a goal of maximum contractor responsibility and minimum risk to the buying agency. It may be necessary, however, to use design-type descriptions (as for components, tolerances, etc.) in certain situations, such as the need for standardization. The description will not contain, in competitive procurements, features that unduly restrict full and open competition.

The "brand name or equal" description may be used to define the performance or other necessary procurement requirements. When so used, the specific features of the brand name product that must be met by bidders must be clearly identified. Brand names that are known to meet the "or equal" requirements should be listed.

The specification will include a description of the product and also include reliability and quality assurance requirements.

Criteria for inspecting, testing, and accepting products will be included in the specification.

Preservation, packaging, packing, and marking requirements will be addressed.

3.3.1.4 Bid Advertisement

The Bid Advertisement will be publicized through distribution to prospective bidders, advertising in newspapers and/or trade journals, and such other means as may be appropriate, in sufficient time to enable bidders to prepare and submit their best bids before the time set for public opening of bids.

3.3.1.5 Competition

The IFB, including specifications and attachments, will permit full and open competition consistent with the requirement for the property or services to be procured. This requirement will represent VAC's minimum needs and be sufficiently described to promote full and open competition.

3.3.1.6 Pre-Bid Conference

At the discretion of the procurement officer, VAC may hold a pre-bid conference as a means of briefing prospective offerors and explaining complicated specifications and requirements. VAC will permit potential respondents to address ambiguities in the solicitation documents that may require clarification. If such a conference is held, notice of the conference shall be included in the solicitation at the time of issuance.

When such conferences are held, they shall be conducted at least two (2) weeks prior to the scheduled bid opening in order to permit time to prepare formal responses to questions and/or issue any necessary bid addenda.

3.3.1.7 Bid Amendments

VAC shall reserve the right to amend bid documents. Amendments will be used to correct problems in standard terms and conditions, changes in quantity, the technical specifications, delivery schedules, opening dates, and/or drawings. Amendments will also be used to correct ambiguous provisions or to resolve conflicting provisions in the bid package. In issuing the amendment, VAC will (1) document the change in writing so there are no misunderstandings; and (2) provide the changes to offerors who were not at the conference.

Bid amendments will contain the following elements:

- 1 identify the solicitation number of the original solicitation;
- 2 identify the amendment number;
- 3 identify the contact person and phone number within your department for further information;
- 4 indicate whether or not the time and date specified in the original solicitation is changed as a result of the amendment;
- 5 advise offerors of the need to and how they should acknowledge receipt of the amendment;
- 6 advise offerors what the changes are; and
- 7 have the amendment signed by the appropriate procurement official, most frequently the contracting officer.

Amendments will be sent to every firm that has been furnished the original solicitation or who attended the pre-bid conference.

3.3.1.8 Bid Opening and Tabulation

All bids will be opened publicly at the time and place stated in the IFB. The bid opening is a public event; guest, visitors, and vendors will be permitted to witness the opening. VAC shall appoint a staff person, other than the contracting officer, to serve as the official supervising and conducting the opening. VAC shall collect all bids, verifying that agency post office boxes, mail room, reception areas where express deliveries are received have been checked as close to the time of bid receipts as possible.

At that time, the designated agency official will personally and publicly open the bids, read the bids aloud (if practical) to those persons present, and have the bids recorded. The bids will be recorded on an "Abstract of Bids" form provided by the agency and this document will be available for public inspection and distribution after completion of the reading of bids.

3.3.1.9 Bid Withdrawal

Bids may be modified or withdrawn by written or facsimile notice. The notice must be received in the place designated in the IFB not later than the exact time set for bid opening. A facsimile modification or withdrawal of a bid received by fax machine should be considered if the message is received by VAC no later than the time set for bid opening, and confirmed as being received.

Modifications received by facsimile will be sealed in an envelope with the following written thereon: the date, time of receipt and by whom, the IFB number and his/her signature. Information contained therein should not be disclosed before the time set for bid opening.

A bid may be withdrawn, in person, by a bidder or his authorized representative provided:

1. His/her identity is made known
2. He/she signs a receipt for the bid
3. The withdrawal is prior to the exact time set for bid opening.

3.3.1.10 Contract Award

Contracts will be awarded to the lowest responsive and responsible bidder, determined on the basis of the evaluation criteria set forth in the IFB. If an offer conforms in all material aspects to the requirements of the solicitation at the scheduled time of submission and does not require further discussions with the offeror, the offer will be determined to be responsive.

3.3.1.11 Single Bid

Single bids are special situations that require additional analysis. Single bid situation arise when VAC receives only a single offer in response to the solicitation or, after review of multiple bids received, all but one bid is found to be nonresponsive to the specifications.

In the event of a single bid arising from either circumstance described above, VAC will determine whether or not the price bid in the single bid is fair and reasonable. If appropriate, a comparison is made of prior proposed and contracted prices with current proposed prices for the same or similar end item. The application of unit costs (*e.g.*, dollars per pound, per horsepower, or other units) may be used to highlight significant inconsistencies that warrant additional pricing inquiry. The results of such analysis will be compared with competitive published price lists, published market prices of commodities, similar indexes, and discount or rebate arrangements.

VAC shall also review the bid documents to determine factors leading to receipt of a single bid. Discussions may be held with expected vendors to determine their reasons for not submitting a bid. If there were no restrictions in the bid specifications that deterred or limited competition, and the expected bidders chose not to bid for reasons other than problems with the solicitation, evaluation and award may proceed. If it is determined that the specifications contained restrictive provisions that minimized competition, VAC shall consult with the Illinois Department of Transportation to determine whether or not the public good would be better served by re-bidding the item or whether to award the contract to the single bidder.

If, on the basis of the above analysis, VAC is able to document that the price is fair and reasonable, and if the bid is responsive and the bidder responsible, and no restrictive elements were found in the bid that hindered competition, a recommendation for award will be forwarded to the VAC Board of Directors.

If, on the basis of the above analysis, VAC is unable to establish that the price is fair and reasonable, the bid will be rejected and a new solicitation conducted.

3.3.1.12 IDOT Concurrence in Bid Documents

If the estimated value of the bid is in excess of \$10,000, VAC shall submit the bid package, in its entirety, to IDOT for concurrence prior to advertisement.

3.3.1.13 IDOT Concurrence in Bid Award

IDOT review and concurrence are required before entering into any third party contract for goods and property costing between \$300 and \$5,000 or for services costing in excess of \$10,000 and where any material change is proposed which would substantially alter the proposed program as detailed in the application or the Approved Project Budget.

In single bid situations where VAC has determined the bid price is fair and reasonable and the agency intends to enter into a contract with the single bidder, the concurrence of IDOT will be obtained prior to contract execution.

3.3.2 Competitive Proposals

3.3.2.1 General Conditions

When VAC determines that conditions in Section 3.3 cannot be met, competitive proposals will be used. The following requirements will be incorporated into the conduct of the procurement.

- 1 The Request for Proposal (RFP) will be publicly advertised. All evaluation factors to be used in the review of proposals will be identified, along with their relative importance.
- 2 Proposals will be solicited from an adequate number of qualified sources.
- 3 VAC will have a method in place for conducting technical evaluation of the proposals received and for selecting the awardee.
- 4 VAC will make an award to the responsible offeror whose proposal is most advantageous to VAC with price and other identified selection factors considered.

In determining which proposal is most advantageous, VAC will consider which proposal offers the greatest business value to the agency based upon an analysis of a tradeoff of the technical factors and price/cost to derive the proposal that represents the best value.

3.3.2.2 Proposal Preparation

The bid documents will identify the nature of the procurement, the agency name, and the contact person(s) and contain simple, clear instructions for preparing an offer. The IFB will clearly state the time and manner for submitting the offer and the length of time for which the offer must remain firm (not subject to withdrawal).

3.3.2.3 Proposal Contents

The proposal documents may vary in construction depending upon the nature of the competitively negotiated procurement and whether or not Federal funds are used in the financing of the procurement activity. The following general format will be used by VAC:

- 1 RFP Advertisement.
- 2 A description of the item or statement of work specifications.
- 3 A description of the requested scope of services, including the requested schedule for completion.
- 4 Sufficient background information on the need for the work in order to allow potential offerors sufficient information to formulate a proposal.
- 5 Standard terms and conditions
- 6 Instructions for construction (*e.g.*, organization, required submissions, etc.) and submission (*e.g.*, date, time, and place) of the proposal response
- 7 Cost and pricing data requirements.
- 8 Standard forms and certifications that must be completed by the respondent.
- 9 An identification of the proposal evaluation factors and the specific weights that will be assigned to each criterion.

Some examples of commonly used evaluation factors used are: experience, qualifications of the submitting firm, experience and qualifications of proposed staff to be used, level of effort (hours of professional labor), proposed methodology, quality of the proposal, responsiveness to the requirements of the RFP, price, proposed quality control procedures, technical support, location of contractor's office(s), and other factors uniquely associated with each procurement. Not all factors will be necessary in every procurement and will be used accordingly. (Enter Agency Name Here) will also determine the relative importance of each evaluation factor, expressed as a percentage of the total score.

3.3.2.4 Proposal Advertisement

The proposal advertisement will be publicized through distribution to prospective proposers, advertising in newspapers and/or trade journals, and such other means as may be appropriate, in sufficient time to enable potential offerors time to prepare and submit their proposals before the specified due date and time.

3.3.2.5 Competition

The RFB will permit full and open competition consistent with the requirement for the services to be procured. This requirement will represent VAC's minimum needs and be sufficiently described to promote full and open competition.

3.3.2.6 Pre-Proposal Conference

At the discretion of the procurement officer, VAC may hold a pre-proposal conference as a means of briefing prospective offerors and explaining agency goals and expectations for the project. If such a conference is held, notice of the conference shall be included in the RFP at the time of issuance.

When such conferences are held, they shall be conducted at least ten (10) days prior to the deadline for the submission of proposals in order to permit time to prepare formal responses to questions and/or issues raised at the conference.

3.3.2.7 Proposal Changes/Addenda

VAC reserves the right to amend proposal requirements and/or change any requirement in the proposal. Amendments will be communicated to prospective offerors through an addendum to the proposal.

Amendments will also be to communicate clarifications in the scope of work, changes in submittal procedures, clarify standard terms and conditions, amend the proposed period of performance, correct unintended omissions, or change the proposal due date. In issuing the proposal addendum, VAC will (1) document the change in writing so there are no misunderstandings; and (2) provide the changes to offerors who were not at the conference.

Proposal addenda will contain the following elements:

- 1 the solicitation number of the original solicitation;
- 2 the addenda number;
- 3 an indication as to whether or not the time and date for submission of proposals contained in the original RFP is changed as a result of the amendment;
- 4 a form that must be signed by the offeror acknowledging receipt of the proposal addendum to be included in the proposal response; and
- 5 a statement of the changes to the RFP.

Proposal addenda will be sent to every firm that has been furnished the original solicitation or who attended the pre-proposal conference.

3.3.2.8 Proposal Opening

All proposals must be received by VAC no later than the date and time specified in the proposal documents. Late proposals will remain unopened and will be returned to the offeror. Such proposals will be considered "late" proposals and will not be considered by the evaluation committee.

Proposals received will not be opened in public and no information concerning the submittals will be communicated to the public.

3.3.2.9 Proposal Review and Evaluation

3.3.2.9.1 Time Period for Evaluation

The primary procurement officer will distribute copies of the proposal, along with an evaluation form, to each member of the proposal review committee. The timetable for review will be established by the primary procurement officer and may vary depending upon the complexity of the procurement. In all instances, the evaluation committee will complete their review within 30 days after receipt of proposals.

3.3.2.9.2 Evaluation Procedures

The primary procurement officer will determine the most appropriate means of evaluation. In a simple evaluation process, price is included in the list of evaluation factors identified in the Request for Proposals and is considered in the evaluation of the proposal. In a qualifications based evaluation process, costs will be submitted by the proposers in a separate, sealed envelop and will not be considered by the evaluation committee until the firm or firms most qualified to perform the work is determined.

3.3.2.9.2.1 Simple Evaluation

Depending on the complexity and scale of the procurement, the primary procurement officer, with the concurrence of the (Enter Name of Executive Officer Here), the primary procurement officer may elect to follow simple evaluation procedures. Price is a component of the proposer's submission and is considered, along with other factors, in the evaluation of proposals.

Each evaluation committee members shall received an evaluation tabulation sheet, listing the specific factors, scores, and/or weights to be used in the evaluation of proposals. Each committee member shall receive a copy of all proposals and sufficient evaluation sheets to conduct the review. Committee members shall review proposals in private, independent from other staff and/or evaluation committee members. Reviewers will not discuss their evaluation with any other

Completed and signed evaluation forms will be submitted to the primary procurement officer. The primary procurement officer will tabulate all reviews, summarizing the individual score for each evaluation factor and the total proposal score judged by each reviewer.

A meeting will be held following individual proposal scoring. All members of the evaluation committee will discuss the scoring, and based on the numerical scores, concur in the ranking of submissions, from first to last.

If, in the opinion of a majority of the members of the evaluation committee, the highest ranked proposal is sufficiently distinguished from other submissions, no further evaluation may be needed. In this case, the primary procurement officer will prepare a written recommendation for award of the contract to the highest ranked proposer. After the concurrence of the (Enter Name of Executive Officer Here), the recommendation will be submitted for approval to the (Enter Name of the Governing Board here).

In event of a tie, or in the event the evaluation committee is unable to reach agreement on the highest ranked firm, the evaluation committee may determine that oral interviews with the top ranked firms within the competitive range are necessary in order to make a final decision.

3.3.2.9.2.2 Qualifications Based Evaluation

When the procurement of professional services involves architectural/engineering services as defined in 40 U.S.C. §541 and 49 U.S.C. §5325(d), (Enter Agency Name Here) will use a qualifications based proposal evaluation method. This method of procurement will be used for all construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related professional services.

In this method of evaluation, VAC will follow the procedures outlined below:

- 1 The RFP shall specifically state that the VAC will use a qualifications based evaluation process consistent with the requirements of the Brooks Act.
- 2 VAC will solicit proposal responses that requires potential respondents to offer only their technical approach and qualifications to undertake the project. Price will be excluded as an evaluation factor.
- 3 VAC will evaluate the proposal submissions consistent with Section 3.3.2.9.2.1 of this policy.
- 4 The evaluation committee will identify the top ranked firm.
- 5 The VAC Executive Director will begin price negotiation with the top ranked firm. If these negotiations are successful, the recommendation to award the contract to the top ranked firm will be submitted for approval to the VAC Board of Directors
- 6 If negotiations with the top ranked firm fail to reach an acceptable price, the VAC Executive Director will begin negotiation with the next

highest ranked proposer. The process will continue with successively ranked proposer until such time as a satisfactory price is negotiated.

3.3.2.10 Proposal Negotiation

VAC may accept one of the initial proposals if it can be clearly demonstrated that acceptance of the most favorable initial proposal without discussion would result in a fair and reasonable price. The RFP will contain a notice that award may be made without discussion of proposals received, and that proposals should be submitted initially on the most favorable terms possible, from a price and technical standpoint.

VAC may elect to enter into negotiations with offerors whose proposal is found to be in the competitive range. Negotiation is a procedure that permits bargaining and usually affords offerors an opportunity to revise their offers before award of a contract. If negotiation is used, any oral or written discussion/communication between the primary procurement officer and the offeror will be documented in writing. Discussions with offerors may:

1. involves information essential for determining the acceptability of a proposal; or
2. provides the offeror an opportunity to revise or modify its proposal.

The purpose of the negotiation is to ensure that the best offer is provided VAC. All responsible offerors whose proposals are determined to be within the competitive range will be included in discussions and negotiations of proposal awards. Only those offerors whose proposals are determined to be so deficient or so out of line as to preclude meaningful negotiation need be eliminated from the competitive range.

The competitive range can consist of those offerors whose proposals have a reasonable chance of being selected for award (*i.e.*, proposals that are acceptable as submitted or can be made acceptable through modification in the negotiation process). The evaluation committee will be assigned responsibility for determining which proposals are in the competitive range. Cost/price and other technical factors may be used in this determination.

At the conclusion of proposal discussion with offerors found to be in the competitive range, VAC will determine whether or not the discussion process has resulted in a material change to the scope of work or that all issues have been resolved to the satisfaction of the evaluation of the committee. At this time, VAC will solicit the offerors' best and final offer. In this process each offeror in the competitive range will be given the opportunity to submit a revised proposal, or section of proposal affected by the change in scope. These revisions will constitute the offeror's best and final offer. The evaluation process will conclude based on this submission.

If, during the initial evaluation process, the evaluation committee finds that a proposal contains a minor irregularity, clerical errors, or other minor informality, VAC may seek a clarification of the proposal. Clarification of a proposal will be done with only that offeror whose proposal contains the error.

At some point during the negotiation process, a decision is made that all out-standing issues have been resolved to the satisfaction of the parties involved. This is the time to formally conclude the discussions by requesting that each offeror remaining in the competitive range submit its best and final offer

3.3.2.11 Proposal Withdrawal

VAC will permit proposers to withdraw or modify their proposals up to the date and time stated in the RFP as the deadline for submission of proposals. After this date and time, proposals shall be firm and binding and cannot be withdrawn for a period of sixty (60) days after submission. This fact will be clearly stated in the RFP.

3.3.2.12 Notification to Unsuccessful Proposers

Once a contract is awarded to the selected offeror, VAC will communicate in writing to all unsuccessful offerors. This communication will occur in writing within seven (7) days after award by the VAC Board of Directors. The communication may include the name of the successful offeror and the rationale for award to that offeror.

3.4 Non-Competitive Negotiation or Sole Source Awards

Sole source procurements are the done by soliciting offers from only a single source or, after solicitation from a number of sources, competition is determined inadequate.

VAC will only use this method of procurement under the following circumstances:

- 1 The item to be procured is determined to only be available from a single source.
- 2 A public emergency exists that dictates the immediate procurement of the good or service within timeframes that cannot be accomplished using a competitive solicitation.
- 3 VAC is specifically authorized by a grantor agency to use non-competitive negotiation.
- 4 After solicitation using competitive means, VAC determines that there is insufficient competition.
- 5 The item to be procured is an associated capital maintenance item that is procured directly for the original manufacturer or supplier of the item to be replaced.

In sole source procurement of associated capital maintenance items, VAC will document its procurements records specifically noting that the manufacturer or supplier is the only source for the item and that the price of the item is no higher than the price paid for the item by similar customers. When conducting sole source procurements, VAC will conduct a cost analysis of the price quoted by the supplier prior to concluding the procurement.

3.5 Intergovernmental Procurements

Where feasible, VAC will seek to use state purchasing agreements or other type of intergovernmental procurements strategies in the procurement of goods or services

When such opportunities are found to exist, VAC will evaluate the following factors prior to purchase to determine that:

- 1 The contract is still in effect or can be modified by the awarding agency to permit sufficient lead time to make the required deliveries to VAC.
- 2 The specifications in the existing contract will meet your needs of VAC.
- 3 The terms and conditions of the contract are acceptable to VAC with respect to warranty provisions, insurance requirements, etc.
- 4 The requirements needed by VAC are not be beyond the scope of the existing contract, creating a sole-source (noncompetitive) add-on to the contract.
- 5 The contract was awarded competitively, either through sealed bids or competitive proposals. If the original contract was awarded under a sole source procurement, VAC will treat the procurement as a sole source and follow the procedures in Section 3.4 of this policy.

3.6 Joint Procurements

VAC may also elected to participate in joint procurements with other recipients of financial assistance awarded under the Federal Transit Administration in order to achieve efficiencies in procurement actions and to obtain better pricing through the purchase of larger quantities. VAC will ensure that all Federal requirements, required clauses and certifications are properly followed and included in the resulting joint solicitation and contract documents.

VAC may also acquire goods or services from other FTA grantees through the assignment of contractual rights to participate in the contract. If using this process (also known as piggybacking), VAC will conduct a cost and price analysis to ensure that the price is fair and reasonable.

3.7 Excess or Surplus Federal Property

VAC will examine current documents regarding the availability of excess Federal property in lieu of purchasing new equipment and property whenever such use is feasible and reduces costs.

4.0 E-Commerce

VAC may utilize electronic methods to conduct all or part of any of its procurement actions. The list of e-commerce strategies includes, but is not necessarily limited to:

1. Transmission of purchase documents, including:
 - a. Request for quotes
 - b. Copies of IFBs
 - c. Copies of RFPs
1. Issuance of clarifications or amendments to the specifications.
2. Issuance of pre-bid or pre-proposal conference summaries.

In all instances of electronic means of communication, VAC will ensure that all vendors on the qualifications list, any vendor who requested a copy of the procurements documents, or any vendor who participated in a pre-bid or pre-proposal conference receives the electronic communication.

Use of e-commerce strategies will not relieve VAC from any responsibility of ensure full and open competition in its procurement actions.

5.0 Contract Cost and Price Analysis

VAC will conduct a cost or price analysis of all its procurement in accordance with the following procedures.

5.1 Cost Analysis

A cost analysis entails the review and evaluation of the separate cost elements and the proposed profit of an offeror's cost or pricing data and the judgmental factors applied in estimating the costs. VAC will conduct a cost analysis to form an opinion on the degree to which the proposed cost, including profit, represents what the performance of the contract should cost, assuming reasonable economy and efficiency.

5.2 Price Analysis

A price analysis involves examining and evaluating a proposed price without evaluating its separate cost and profit elements. Price analysis is based essentially on data that is verifiable independently from the offeror's data.

5.3 Price Analysis for Micro and Small Purchases

For all micro and small purchases, the VAC Executive Director will certify, through the use of pre-formatted standard form, that the price paid for the good or item is fair and reasonable based on a review of catalog prices (paper documents or web documents), market prices determined from written or oral quotes, regulated prices (e.g., utilities, etc) or other similar means.

5.4 Cost or Price Analysis for Competitive Procurements

VAC will conduct formal cost or price analyses of all its procurements undertaken through competitive means (Section 3.3 of this policy). The purpose of this analysis will be to ensure that the agency does pay excessive or unreasonably high rates for the goods and services being procured. Identification of excessively low costs or prices will be used to determine whether or not an offeror has made a mistake or has misunderstood the specifications.

5.4.1 Price Analysis Procedures

Prior to undertaking the procurement, VAC will develop an independent estimate of the proper price level for the supplies or services to be purchased. The estimate can range from a simple budgetary estimate to a complex estimate based on inspection of the product itself and review of such items as drawings, specifications, and prior data (such as cost data from prior procurements). The estimate can then assist in a determination of reasonableness or unreasonableness of price.

In addition to comparison with the price estimate, VAC will use the following additional factors to evaluate the reasonableness of the proposed price:

1. Comparison of proposed prices received in response to the solicitation.
2. Comparison with competitive, published price lists, published market price of commodities, similar indexes, and discount or rebate arrangements.
3. Comparison of prices received with prior procurement actions for the same or similar end items. VAC may acknowledge prior price comparisons may be affected by:
 - a. changes in economic conditions between the times of the two procurements;
 - b. differences in quantities;
 - c. inclusion of nonrecurring cost in the prices, such as design, capital equipment, production facilities, etc (to make a fair comparison, nonrecurring costs can be removed from both prices)

5.4.2 Cost Analysis Procedures

VAC will conduct a cost analysis the procurement requires the offeror to submit the elements of the estimated cost (e.g., professional services contracts, A/E contracts, etc.). The goal of the cost analysis is to determine whether the offeror's estimate contains an accurate and reasonable prediction of the cost incurred during performance. The contract price will be figured by adding a rate of profit that is determined to be fair.

VAC may use the following common cost analysis techniques in the conduct of this analysis:

1. Verification of cost or pricing data and evaluation of cost elements, examining the following:
 - a. necessity for and reasonableness of proposed costs, including allowances for contingencies;
 - b. projection of offeror's cost trends on the basis of current and historical cost or pricing data;
 - c. technical appraisal of estimated labor, material, tooling, facilities requirements and reasonableness of scrap and spoilage factors; and
 - d. application of audited or negotiated indirect cost rates, labor rates, etc.
2. Evaluation of the effect of the offeror's current practices on future costs. This ensures that the effects of inefficient or uneconomical past practices are not projected into the future.
3. Comparison of the individual cost elements proposed with the following:
 - a. actual costs previously incurred by the same offeror;
 - b. previous cost estimates from the offeror or other offerors for the same or similar items;
 - c. other cost estimates received in response to a specific request by VAC;
 - d. elements of the independent cost estimates by VAC;
 - e. verification that the offeror's cost elements are in accordance with Federal cost principles and procedures as found in FAR 31.

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.

5.4.3 Cost Analysis for Sole Source Procurements

The procedures outlined in Section 5.4.2 will be used in any sole source procurement or when VAC determines there is inadequate price competition after the conduct of a competitive procurement.

5.4.4 Use of Federal Cost Principles

In conducting cost or price analyses, the costs considered must conform to the principles for allowability established under Federal Acquisition Regulations (FAR) as defined in 49 CFR part 18.22 and 49 CFR part 18.31.

6.0 Contract Actions

6.1 Award Notice

6.1.1 Offer and Acceptance

When VAC is in full agreement with all of the terms and conditions of the offer, an offer and acceptance form may be used as the awarding document. The offer and acceptance form will be signed and dated by an individual authorized to contractually bind the agency to a contract agreement. Offer and acceptance procedures are generally appropriate for competitive bidding and competitive negotiation procurements where no changes to the offeror's proposal were made.

6.1.2 Bilateral Contract

In cases where there have been changes to the RFP terms or the proposal terms during the course of discussions and negotiations with the offerors, VAC will develop issue a written notice of award by letter to the successful offeror and indicate that bilateral contract document will be

forthcoming. The bilateral contract would incorporate the final negotiated terms and conditions, including price, specifications, warranty provisions, etc. VAC and the successful offeror will sign and date the agreement.

6.2 Standard Provisions in All Contracts

VAC will develop the bilateral contract document. The document will be sufficiently detailed to include all provisions to define a sound and complete agreement. All bilateral contracts developed will contain provisions relative to the resolution of administrative, contractual, or legal remedies where contractors violate or breach the terms and conditions of the contract and what sanctions and/or penalties may be rendered for such breach. Additionally, all contracts executed in excess of \$10,000 shall include termination for cause and for convenience clauses and the basis for settlement of claims in the event of termination.

VAC shall include all appropriate third party terms and conditions in all contracts.

6.3 Contract Options

VAC may elect, when in the best interest of the agency, to include options in its procurement contracts. An option permits (Enter Agency Name Here) the right to purchase additional equipment, supplies, or services called for under the terms and conditions of the contract, or to extend the term of the contract. When options are used, VAC will follow these procedures:

- 1 Option quantities and the time period in which to use options will be clearly specified in procurement documents and in the contract.
- 2 Exercise of an option will be done in accordance with all the terms and conditions of the initial contract.
- 3 VAC has determined that the option price is better than prices available in the marketplace at the time the option is being considered.

6.4 Payment Provisions

VAC will make payments to contractors following completion or delivery of the good or service to be provided. Payment following delivery of goods is subject to the inspection and acceptance of the good prior to issuance of payment.

For professional services contracts, VAC may render progress payments to the contractor based on a payment schedule mutually agreed upon by the VAC and the professional services firm. Acceptable basis for determining the amount of the progress payment may include:

- 1 Actual cost incurred during the period.
- 2 Percentage of satisfactory completion of the technical elements of the scope of work, based on the level of effort required for each work element.

Progress payments will only be made when adequate progress is documents, in the form of completed products or by submission and acceptance of written progress reports demonstrating effort on the project.

6.5 Contract Award Announcements

If VAC intends to award a contract that has an aggregate value of \$500,000 or more, you are required to comply with the contract award announcement provision noted above. Public announcements may include press releases, announcements in public meetings, Internet postings and publicly released documents.

6.6 Prohibited Actions

VAC will not use “cost plus percentage of cost” or “percentage of construction costs” as a payment mechanism or mechanism to render payments to contractors.

VAC will not issue advance payments to contractors.

6.7 Leasing

PROVIDER will conduct an analysis of purchase costs versus lease costs to ensure the most economical approach is pursued. A lease may also be undertaken if the 1) item to be procured is needed on an emergency basis, 2) there are no capital funds available to purchase the item, 3) item will be used for a demonstration project, or 4) item is needed while the **PROVIDER** is undertaking a formal procurement of the item. Leasing of capital equipment 1) must have prior approval of the Illinois Department of Transportation’s Division of Public and Intermodal Transportation (DPIT), 2) is only eligible as an operating expense, and 3) must meet the following criteria:

1. The total cost of the item including all lease payments is greater than \$5,000.
2. Ownership of property is not transferred to the **PROVIDER** at the end of the lease term as a term of the agreement.
3. The lease does not contain a bargain purchase option. A bargain purchase option is the lessee’s option to purchase the leased item at the end of the lease is set at a sufficiently low price as to make the purchase almost certain. Typically this price is far below market value of the leased item as determined at the end of the lease term.
4. The lease is for a term that is less than 75% of the estimated useful life of the lease property.

7.0 Written History of Procurement

VAC will maintain a written history of every procurement action. At a minimum, the following items will be documented in the procurement file:

- 1 Rational for the method of procurement chosen.
- 2 Selection of the contract type.
- 3 Reasons for the contractor selection/rejection.
- 4 Basis for the contract price.
- 5 Documentation of any other significant activities of the procurement.
- 6 Evaluation of lease versus purchase options.

8.0 Disputes and Protests

8.1 Disputes

VAC will work with contractors and vendors to resolve disputes arising from its procurement of goods and services. If such disputes cannot be resolved through negotiation between the vendor and the VAC Executive Director may render a decision on the matter.

Nothing in this policy mitigates the right of the vendor to seek legal remedy in a court of competent jurisdiction.

VAC may seek the assistance of the grantor agency in resolving disputes.

8.2 Protests

Protests will only be accepted by VAC from prospective bidders or bidders whose direct economic interest would be affected by the award of a contract or refusal to award a contract. VAC will consider all such protests, whether submitted before or after the award of a contract. All protests must be in writing and conform to the following requirements:

- 1 Be concise and legally arranged.
- 2 Provide name, address and telephone numbers of protestor.
- 3 Identification of the solicitation or contract number.
- 4 Provide a clear and detailed statement of the legal and factual grounds of the protest including copies of all relevant documents.
- 5 Provide a statement as to what relief is requested.

8.2.1 Protests Prior to Award

Protests before award must be submitted within the time frame specified below. If the written protest is not received by the time specified, the bid or evaluation process shall continue.

Protests addressing the adequacy of the Invitation to Bid or request for proposal, including the pre-award procedure, the Instruction to Bidders, General terms and conditions, specifications and scope of work, must be filed with VAC not less than fourteen (14) full working days before bid opening or date of receipt for proposals. Thereafter, all issues and appeals are deemed waived by all interested parties.

Upon receipt of the written protest, VAC will determine if the bid opening or date of receipt for proposals should be postponed. If the bid opening or due date is postponed, an appropriate addendum will be issued regarding a rescheduling of the bid opening.

Any protest may be withdrawn at any time before VAC has issued its decision.

8.2.2 Protests After Bid Opening/Receipt of Proposals

Any party aggrieved by an award of a contract may protest to the VAC Board of Directors, in writing, within seven days after such aggrieved party knew or should have known of the facts giving rise thereto. Such protest shall include the detailed facts leading up to the protest. The Chairman of the VAC Board of Directors is authorized to settle and resolve any protest relating to the solicitation or contract award. Protests received later than 30 days after bid opening or the receipt of proposals shall not be considered.

In the absence of a settlement, the Chairman shall make his or her decision known, in writing, within one week of receipt of the protest. Such decision shall respond, in detail, to each substantive issue raised in the protest.

The written decision of the Chairman shall be final, binding, and conclusive on the parties.

Protests should be transmitted to:

President, Voluntary Action Center of DeKalb County Board of Directors
Voluntary Action Center of DeKalb County
1606 Bethany Rd.
Sycamore, Illinois 60178

Protests will only be entertained by the Federal Transit Administration if the aggrieved party is alleging that VAC does not have, or is failing to follow, written protest procedures.

9.0 Bonding Requirements

For all construction of facility projects that are projected to be in excess of \$100,000, VAC will require:

1. A bid bond or other suitable guarantee from each bidder equivalent to five (5%) percent of the bid price. The "bid guarantee" will consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
3. A payment bond on the part of the contractor. A payment bond is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from contractors are as follows:
 - a. 50% of the contract price if the contract price is not more than \$1 million;
 - b. 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - c. \$2.5 million if the contract price is more than \$5 million.

10.0 Liquidated Damages

VAC will assess the impact of each contract and the consequences for failure of a contractor to complete the project if it is determined the agency will suffer damages and the extent or amount of damages would be difficult or impossible to determine. The assessment of damages will be set at a specific rate per day for each day overrun in the contract period of performance. The VAC Executive Director will determine the level of damages to be assessed per day, based on the scope of the project.

11.00 Access to Records

VAC will permit access to records by the Comptroller General, or any of their representatives, access to and the right to examine and inspect all records, documents and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

12.0 References

In addition to this policy, VAC will consult with the following documents to obtain additional details and procedures, policies, and practices governing procurement actions:

1. FTA Circular 4220.1F, dated July 1, 2010
2. FTA's Best Practices Procurement Manual
3. ILDOT 5310/5311 Grant Management Manual

Appendix E

City of DeKalb 2020 CDBG Program Schedule for Reporting and Disbursement of Funds

Programs that run throughout the 2020 program year will submit program and financial reports on a quarterly schedule. Grant reports and payments are generally on a quarterly schedule and are subject to change based on HUD date of release of grant funds. Reporting and payment schedules may be modified for SUBRECIPIENTS whose programs are completed in less than six months. Payments are contingent upon completion of the environmental review, execution of the SUBRECIPIENT AGREEMENT, and receipt of program and financial reports, as well as source documents that substantiate CDBG-funded expenditures.

| Report Due Date | Period Covered | Funds Disbursed |
|------------------------|-------------------------------|------------------------|
| July 10, 2020 | April 1 – June 30, 2020 | July 2020 |
| October 10, 2020 | July 1 – September 30, 2020 | October 2020 |
| January 10, 2021 | October 1 – December 31, 2020 | January 2021 |
| April 10, 2021 | January 1 – March 31, 2021 | April 2021 |

Appendix F

City of DeKalb Community Development Block Grant – Public Services Program Costs Ineligible for CDBG Funds

The City of DeKalb uses Community Development Block Grant (CDBG) funds to support programs and services that provide for the needs of low- and moderate-income residents as identified in the City's 2020-2024 Consolidated Plan. Direct program costs are generally eligible for CDBG funds based on the federal Omni Circular. Some costs, though allowable under federal regulations, are ineligible for reimbursement with City of DeKalb CDBG funds. Please note that some costs may be included in the program budget but will not be paid with CDBG. This list is not all inclusive.

Ineligible Costs include:

- Entertainment costs.
- Alcoholic beverages.
- Fines, penalties, damages and other settlements.
- Compensation to trustees, board members and their immediate family members.
- Staff time and other costs related to applying for CDBG funding.
- Advertising and public relations costs (this does not include informational materials such as program flyers used for program outreach/recruitment of eligible participants);
- Fund raising costs.
- Equipment and capital expenditures.

Eligible costs that will not be paid with CDBG include:

- Costs relating to the federal Single Audit.
- Indirect cost allocations, whether approved by a federal cognizant agency or the 10% de minimus indirect cost allocation.
- Computers and other electronic devices.

R 2020-071

Contract Addendum

September 21, 2020

2020 Community Development Block Grant (CDBG) CARES Act Funding Contracts

LENGTH OF AGREEMENT: The term of this agreement shall begin no sooner than August 18, 2020 and end on August 18, 2026. Payment of CDBG grant funds by the CITY to the SUBRECIPIENT shall occur for eligible services and/or activities performed by the SUBRECIPIENT during the term of this Agreement as long as the SUBRECIPIENT is performing in accordance with the terms of the agreement. SUBRECIPIENT acknowledges that 80% of funds must be expended within three years of the start of the agreement.

Notwithstanding the foregoing, the term of this Agreement shall remain in effect during any period that the SUBRECIPIENT has control over CDBG funds, including any program income.

IN WITNESS, WHEREOF, the parties have executed this Agreement in duplicate and the Effective Date is the date that the City signs the document.

CITY OF DEKALB

SUBRECIPIENT (DUNS Number: 161405329)

BY: 
Signature

BY: Mary Ellen Schaid
Signature

NAME: Jerry Smith

NAME: Mary Ellen Schaid

TITLE: Mayor

TITLE: Executive Director

DATE: 9-21-2020

DATE: 9-29-2020