

St. Clair County

RESOLUTION
2000 #3
ST. CLAIR COUNTY COMMISSION

WHEREAS, the Alabama Community Development Block Grant Program, has been established to assist local governments in meeting community development needs consistent with the objectives as set forth in Title I of the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the St. Clair County, acting by and through its Commission, and keeping in compliance with ADECA and DHUD rules and regulations, has designed Policies to Govern Purchasing and Establish a Code of Ethics for St. Clair County's CDBG Program; and

WHEREAS, said Policies to Govern Purchasing has been developed to comply with the regulations and requirements of the CDBG Program as administered by ADECA and DHUD; and subsequently, supersedes all other Policies related to purchases by the CDBG Program, which may have been adopted by the St. Clair County Commission; and

WHEREAS, Stanley D. Batemon, Chairman, is hereby designated Purchasing Coordinator and has been charged with the enforcement of the Code of Ethics for St. Clair County's CDBG Programs; and

THEREFORE, should it become necessary to amend these Policies, it shall be done by Resolution Approval and the Amendment will be incorporated into said Purchasing Policies.

Adopted this the 25 day of January, 2000.

ST. CLAIR COUNTY COMMISSION

Chairman:

Stanley D. Batemon

COMMISSIONERS:

Ronald White

Mike Bond

Paul Mang

James Stokel

ATTEST:

Jay Thompson

POLICIES TO GOVERN PURCHASING
AND
ESTABLISH A CODE OF ETHICS
FOR
THE ST. CLAIR COUNTY COMMISSION

CDBG PROGRAM

JANUARY, 2000

**POLICIES TO GOVERN PURCHASING
AND
ESTABLISH A CODE OF ETHICS FOR
THE ST. CLAIR COUNTY COMMISSION**

A. Procurement and Selection Procedures

PURPOSE

To establish efficient and economic procurement and selection procedures for obtaining labor, materials and services.

Section 1. Scope

All contract labor, materials, supplies and services purchased in whole or in part by the St. Clair County Commission shall be acquired in accordance with these procedures.

Section 2. Applicable Legislation and References

- State of Alabama Competitive Bid Law
- State of Alabama Code of Ethics
- Uniform Administrative Requirements (Common Rule) as adopted by OMB Circular A-87

Section 3. Selection Procedures

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

- (1) Competitive solicitations contain a clear and accurate description of materials, product or service to be procured.
- (2) All general and special bidder requirements relating to the materials, product or service were clearly stated in the solicitation; and
- (3) Bid awards were made only to responsible contractors that possess the ability to perform successfully under the terms and conditions of the purchase agreement.

Section 4. Method of Procurement

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

- (1) Small Purchase Procedures
 - (a) Price or rate quotations for material or supplies with an aggregate cost less than \$7,500 must be obtained from at least three (3) qualified sources. Documentation is required.
 - (b) Price or rate quotations for professional services with an aggregate cost of \$100,000 or less must be obtained from at least three (3) qualified sources. File documentation and contract for professional services are required.

(2) Competitive Sealed Bids

Section 41-16-50 as amended, State Competitive Bid Law, requires bids to be taken on contracts for labor, services or work or for the purchase or lease of materials, equipment, supplies or other personal property involving \$7,500 or more. Professional services are exempt from State Competitive Bid Law.

Sealed bids are publicly solicited through formal advertising. To be feasible to use competitive sealed bids, the following conditions must be present:

- (a) A complete, adequate and realistic specification or description of purchase is available;
- (b) Two or more responsible vendors are willing and able to effectively compete for the business; and
- (c) The procurement lends itself to a firm fixed-price contract that allows selection of the successful bidders based principally on price. Cost plus a percentage of the cost is forbidden.

Additionally, if formal advertising is used, it must comply with the following:

- (a) Sufficient time must be allowed between bid solicitation and the date set for opening of bids. Bids must be solicited from an adequate number of known suppliers. In addition, the invitation must be publicly advertised. Published at least once in a newspaper of general circulation in the same location as the project.
- (b) Clearly defined items or services needed must be included in the invitation for bids. This includes specifications and attachments.
- (c) The invitation for bids will state the time, date and place that bids will be opened publicly.
- (d) Contract award must be made by a written notice to the lowest bidder and the bidder must offer a firm-fixed price. Bids must conform to the invitation for bids. Factors such as discounts, transportation costs and life cycle costs will be considered in determining low bidder, provided these factors were specified in the bidding documents. Payment discounts may be used only to determine low bid when prior experience of the grantee indicates that such discounts are generally taken.
- (e) Any and all bids may be rejected upon verification that sound business reasons declares it is best for the program. Documentation of these findings is needed.

(3) Competitive Negotiations

Competitive negotiations may be used when reasons are discovered that it would be inappropriate to use formal advertising. The following requirements will apply in this case.

- (a) The adequate number of qualified sources must be solicited. The Request for Proposals (RFP) must be publicized and reasonable requests by other sources to compete must be honored to the maximum extent possible and practicable.

- (b) Significant evaluation factors, including price or cost where required and their relative importance, must be identified in the RFP.
- (c) Establish a method to technically evaluate proposals, determine responsible vendors for the purpose of written or oral discussions and selection criteria for contract award.
- (d) The RFP that is most advantageous to the procuring party, considering all factors, including price will be awarded to the responsible firm. All unsuccessful respondents should be notified.
- (e) Engineering/Architectural and Grant Management services can be procured through competitive negotiation procedures. Evaluation of competitors' qualifications will determine the recipient of the award, subject to negotiation of fair and reasonable compensation.

State CDBG Intergovernmental Policy Letter No. 1, Revision 6, addresses modifications to procurement of professional services:

- Services costing more than \$100,000 require competitive negotiation (two or more providers) except when justified by one or more of the special situations addressed in the Policy Letter, if any,
- Services costing \$100,000 or less may be procured by the use of Small Purchase Procedure.

(4) Non-Competitive Negotiations

Non-competitive negotiations or "sole-source" procurement is limited to the following:

- The item or service is available from only one source.
- Urgent public need or emergency.
- After solicitation of a number of sources, competition is considered inadequate or only one response is received.

State Policy Letter No. 1, Revision 6, addresses non-competitive negotiation.

NOTE: When using this method of procurement, you must ensure:

- Proper documentation that one or more of the above circumstances existed;
- No conflict of interest by the parties involved; and
- Costs for the service(s) are in line with local or substate practices.

Section 5. Contracts

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

Section 6. Responsible Personnel

The Commission Chairman shall appoint a Purchasing Coordinator. The Purchasing Coordinator's duties and responsibilities will consist of:

- (1) Overall coordination of the procurement of labor, materials and services to ensure legal and programmatic compliance;
- (2) Sufficient and clear documentation of all purchase transactions;
- (3) Review all purchase requests to avoid duplicative and ineligible purchases;
- (4) Review all purchase requests to avoid division of partial purchases and promote minority enterprise development;
- (5) Determine the most economical approach to the procurement of labor, materials, or services and classify each purchase accordingly.
- (6) As appropriate, the Purchasing Coordinator will assist the Community Development Coordinator in the financial and contractual administration of the program to ensure that payments for goods and/or services are issued only when:
 - (a) The expense is an eligible item and is appropriately budgeted in the approved CDBG budget;
 - (b) Sufficient and detailed source documentation is available;
 - (c) The invoice has been approved for payment as required;
 - (d) Contractors, subcontractors and vendors have performed according to the terms and conditions of the approved agreement.

For purposes of the procedures set forth above, the Purchasing Coordinator will be Stanley D. Batemon, Chairman, St. Clair County Commission.

B. Code of Ethics

PURPOSE

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

Section 1. Declaration of Policy

It is essential to the proper government and administration of the St. Clair County that the elected officials and employees be and give the appearance of being independent and impartial; that public service not be used for private gain; and that there be public confidence in the integrity of the County. Because the

attainment of one or more of these ends is impaired whenever there exists in fact, or appears to exist, a conflict between the private interest and public responsibilities of the officials and employees, the public interest requires that the Town protect against such conflicts of interest by establishing appropriate ethical standards with respect to the conduct of persons herein above named in situations where a conflict may exist.

It is also essential to the efficient operation of the County that those persons best qualified be encouraged to serve in positions of public trust.

Accordingly, the standards hereinafter set forth must be so interpreted and understood as not unreasonable to frustrate or impede the desire or inclination to seek and serve in public office by those persons best qualified to serve. To that end the persons herein above named should not, except as otherwise provided by law, be denied the opportunity available to all other citizens to acquire and maintain private, economic and other interests except where a conflict of interest situation would necessarily result. The policy standards of ethical conduct that shall be applicable to the persons herein above named in the discharge of their official duties; to implement the objective of protecting the integrity of the County and to prescribe only such essential restrictions against conflict of interest as will not impose unnecessary barriers against public service.

Section 2. Impartiality

No official or employee shall by his or her conduct give reasonable basis for the impression that any person improperly can influence him or her or unduly enjoy his or her favor in the performance of official acts or actions or that he or she is affected unduly by the kinship, rank, position of or association with any person.

Section 3. Gifts and Favors

No official or employee shall directly or indirectly request, exact, receive or agree to receive a gift, loan, favor, promise, or thing of value for himself or herself or another person if:

- (1) It tends to influence him or her in the discharge of his or her official duties, or
- (2) He or she recently has been, or is now, or in the near future will be, involved in any official act or action directly affecting the donor or lender.

This section shall not apply in the case of:

- (1) An occasional, non-pecuniary gift of insignificant value less than twenty-five (\$25.00) dollars;
- (2) An award publicly presented in recognition of public service; and
- (3) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of Alabama to engage in the making of such a loan.

Section 4. Campaign Contributions

The provisions of this Code shall apply to campaign contributions made to an official in compliance with the Alabama Campaign and Financial Disclosure Act.

Section 5. Confidential Information

No official or employee shall disclose or otherwise use confidential information acquired by virtue of his or her position with the St. Clair County Commission for his, her or another person's private gain.

Section 6. Representation

No official or employee shall appear on his or her own behalf, or represent, or appear on behalf of, whether paid or unpaid, any person before any court or before any legislative, administrative, or quasi-judicial board, agency, commission, or committee appointed by the Elected Officials concerning any contract or transaction which is or may be the subject of an official act or action of the St. Clair County Commission except in the regular discharge of their official duties, or otherwise use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself or other persons.

Section 7. Incompatible Employment

No official or employee shall engage in or accept employment with or render service for any private business or professional activity when such is adverse to and incompatible with the proper discharge of his or her official duties.

Section 8. Abstention

An official or employee who has an interest that he or she has reason to believe may be affected by his or her official acts or actions or by the official acts or actions of the County shall abstain from participating in such official act or actions affected thereby.

Section 9. Acquiring an Interest

No official or employee shall acquire an interest in any contract or transaction at a time when he or she believes or has reason to believe that such an interest will be affected directly or indirectly by his or her official act or actions or by the official acts or actions of the St. Clair County Commission.

Section 10. Contracts Involving Officials or Employees

The St. Clair County Commission shall not enter into any contract involving services or property with an official or employee or with a business in which an official or employee has an interest during their tenure or for one year thereafter. This section shall not apply in the case of:

- (1) The designation of a bank or trust company as a depository for County funds;
- (2) The borrowing of funds from any bank or lending institution which offers the lowest available rate of interest for such loan;
- (3) Contracts entered into with a business which employs a Consultant, provided that such employment is not incompatible with the Consultant's official duties under Section 7 of this Code;
- (4) Contracts for services entered into with a business which is the only available source for such goods or services; and

- (5) Contracts entered into under circumstances which constitute an emergency situation, provided that a record explaining the emergency situation is prepared by the Commission Chairman, submitted to the local body at its next regular meeting and approved by the local governing body, and kept on file.

Section 11. Compliance with Applicable Laws

No official or employee shall engage in any activity or transaction that is prohibited by any law, now existing or hereafter enacted, which is applicable to him or her by virtue of his or her office. When any provision of this Ethics Ordinance shall conflict with the laws of Alabama or the United States, such laws shall apply. If any section shall be declared by any court to be invalid, the remaining sections shall remain applicable.

Section 12. Penalties for Violation of Code

Any violation of a provision of this Code is a misdemeanor. Any person convicted of such violation may be punished by a fine of not more than nine hundred (\$900.00) dollars or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment. Any officer or employee of the St. Clair County so convicted of such violation is deprived of his/her office or employment immediately and is ineligible to hold an elected office or employment for two (2) years thereafter.

Section 13. Exceptions

Upon written request by the St. Clair County Commission to the State, an exception to the provisions regarding an employee, agent, consultant, officer or elected officer or appointed official of the County may be granted by the State. The State may grant such an exception upon written request of the St. Clair County Commission provided the State shall fully document its determination in compliance with all requirements of paragraph (j)(5), Section 570.480, including the State's position with respect to each factor and making such documentation available for view by the public and HUD.

An exception may be granted after it is determined that such an exception will serve to further the purpose of the Community Development Block Grant Act and the effective and efficient administration for the programs or project.

Section 14. Enforcement of the Code

The Commission Chairman or his designee of the local governing body will be charged with the enforcement of the Code of Ethics. The Commission Chairman or his designee will have the following duties:

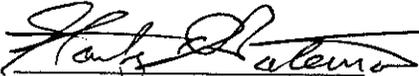
- (a) To establish procedures, rules and regulations governing its internal organization and conduct of its affairs;
- (b) To render advisory opinions with respect to the interpretation and application of this Code to all persons who seek advice as to whether a particular course of conduct would constitute a violation of the standards imposed herein. All requests for advice shall be made in writing. Such opinion shall be binding on the governing body in any subsequent complaint concerning the person who sought the opinion and in good faith, unless material facts were omitted or misstated in the request for the advisory opinion;
- (c) To prescribe forms for disclosures required under this Code and to make available to the public the information disclosed as provided under this Code;

- (d) To receive and hear complaints of violations of the standards required by this Code;
- (e) To made such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this Code;
- (f) To hold such hearings and make such inquiries as it deems necessary for it properly to carry out its functions and power;
- (g) To recommend to the local governing body any disciplinary action, including dismissal or censure, deemed appropriate for violations of this Code and to make such recommendations, absent the identity of the person concerned, available to the public;
- (h) To make proposals and recommendations to the local governing body for the adoption of any revisions or amendments to this Code.

Section 15. Financial Disclosure

The Elected Officials, Department Heads, and Employees authorized to commit funds or sign official documents on behalf of the St. Clair County Commission shall file annually with the State Ethics Commission, a report disclosing the sources of income, whatever its nature, in excess of \$1,000 derived from any one source for the preceding calendar year. Such report shall be filed on or before April 15 of each year for the prior calendar year. Failure to file such disclosure statement shall be reflected in the records of the local governing body and documented in the first meeting's minutes following the April 15 deadline.

ST. CLAIR COUNTY COMMISSION


CHAIRMAN