



City of Albuquerque

Social Services Contracts Procurement Rules and Regulations

Promulgated by

The Department of Family and Community Services

Social Services Procurement Rules and Regulations

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Chapter I Authority

1.1 Authority

- 1.1.1 The City of Albuquerque's Public Purchases Ordinance (the "Ordinance") exempts agreements for Social Services which are procured in accordance with written regulations promulgated by the Department of Family and Community Services, or a successor agency, and approved by the City Purchasing Officer. §5-5-20(A)(2)
- 1.1.2 The City Purchasing Officer, by approval of these Regulations, delegates authority to all City departments to procure Social Services in accordance with these Regulations. The City Purchasing Officer shall be the final authority if questions arise regarding the applicability of these Regulations to a specific purchase, procurement or contract.

1.2 Applicability

- 1.2.1 These Regulations are written to establish policies, procedures and guidelines related to the procurement, management and control of Social Services contracts as defined in the Ordinance.
- 1.2.2 These Regulations are applicable to the purchase of Social Services by any City department.
- 1.2.3 These Regulations shall promote the following purposes and policies of the Department and the City:
 - (a) To simplify, clarify and accurately describe the procurement process for Social Services contracts.
 - (b) To make as consistent as possible the procurement process for Social Services within the various divisions of the Department of Family and Community Services and within the City.
 - (c) To ensure the fair and equitable treatment of all persons who deal with and provide Social Services.
 - (d) To improve the quality, delivery and effectiveness of Social Services for residents of Albuquerque.
- 1.2.4 These Regulations shall apply to all procurements of Social Services begun (i.e. for which a requisition, RFP or contract has been issued) after the effective date hereof. These Regulations supersede all prior Regulations as of the effective date hereof.
- 1.2.5 These Regulations shall control with respect to all procurements described herein, except that where these Regulations are silent on matters covered by the *City of Albuquerque Purchasing Rules and Regulations*, the latter shall apply.
- 1.2.6 These Regulations are not applicable to the procurement of goods, services or construction which do not meet the definition of Social Services below; and are not applicable to City housing rehabilitation projects administered by Albuquerque Housing Services, a division of the Department, which projects follow procedures established by §3-4-1 of the City of Albuquerque Code of Resolutions, as currently or hereafter amended.

Chapter II Definitions

Administrative Requirements means the current version of those requirements developed by the Department of Family and Community Services entitled in full *Administrative Requirements for Contracts Awarded Under the City of Albuquerque, Department of Family and Community Services, Social Services Programs* (“Administrative Requirements”).

Agreement means the contract document between the recipients of City Funds and the City which specifies the services to be provided and the terms and conditions which must be adhered to in order to receive funds from the City of Albuquerque.

City Funds means those funds appropriated through the City Council of Albuquerque to the Department of Family and Community Services

City General Funds means City Funds which are City general revenues not grant funds from other public organizations or outside entities.

Contractor means a non-profit organization or public agency that has entered into an Agreement with the City, through the Department of Family and Community Services, to provide Social Services.

Department means the Department of Family and Community Services, City of Albuquerque or its successor(s).

Director means the Director of the Department of Family and Community Services.

Offeror means a non-profit organization or public agency, which has submitted a proposal or offer in response to an RFP or RFQ.

Plan means a written document which generally describes community needs, specific actions to be undertaken to address the stated needs and the allocation of funds authorized within the Plan to fund the stated actions.

RFP means Request for Proposals.

RFQ means Request for Qualifications.

Social Services means the provision, primarily to low and moderate income residents of the City, of human services such as health care, substance abuse treatment and prevention, day care, emergency shelters, youth services, senior services, employment services and job training; the provision of housing intended primarily for low and moderate income residents of the City; and economic development activities designed to benefit primarily low and moderate income areas of the City or to increase employment among low and moderate income residents.

Social Services contract means a contract with a private, non-profit or public governmental agency for Social Services in return for the payment by the City of costs associated with the provision of Social Services, including, but not limited to, the costs for labor, supplies, operating expenses, equipment and the acquisition or improvement of real property as set out in the terms of the contract.

Chapter III General

3.1 Funding

In accordance with §5-5-20 R.O.A. 1994, the Department has drafted these Regulations which relate to the procurement of Social Services. Funds for Social Services contracts are generated from a variety of sources including, but not limited to, City General Funds and grant funds, i.e., federal, state and county appropriations, private foundations, and contributions.

3.2 Contract Requirements

As applicable, recipients of Social Services contracts are required to adhere to these Regulations, the *Administrative Requirements*, any applicable grant requirements and the terms and conditions of the Agreement between the recipient and the City. In the event the terms and conditions of the *Administrative Requirements* are not applicable for a given funding source, the specific requirements to which a recipient must adhere will be detailed in the Agreement.

3.3 Form RFP and RFQ

The Department has drafted a form RFP and a form RFQ. These forms have been approved by the City Purchasing Officer and the City Legal Department for use by the Department in the procurement of Social Services. Prior to March 2006, and every five years thereafter, or sooner if a substantive change is made to the form of these documents, they shall be submitted to Purchasing and Legal for review. Only approved forms shall be used for the procurement of Social Services.

3.4 Form Agreements

The Department has drafted various form Agreements for Social Services which have been approved by the City Purchasing Officer and the City Legal Department for use by the Department in contracting for Social Services. Annually, prior to April 1, or more frequently if a substantive change is made to the form of these contracts, they shall be submitted to Purchasing and Legal for review. Only approved contract forms shall be used for the purchase of Social Services unless submitted for Purchasing and Legal review prior to execution. In addition, form contracts, which contain unusual scopes of services or methods of payment shall also be submitted for Legal approval.

3.5 Drafting Agreements

The Department shall be responsible for drafting an appropriate scope of services and method of payment for each RFP or RFQ issued and for each Agreement for Social Services entered into. If an RFP, RFQ or contract involves unusual Social Services or raises major purchasing, legal or policy concerns, the Department shall contact Purchasing or Legal, as necessary, to assist with the preparation of the document.

3.6 Right to Refuse to Contract

The Department reserves the right to refuse to proceed with the development or renewal of a Social Services contract at any time when it is in the best interest or convenience of the City not to do so.

Chapter IV Exemptions from the Request for Proposals Process

4.1 Procurement of Social Services by Negotiation

Purchases of Social Services of \$55,000 or less may be made by negotiation and execution of an Agreement signed by the Director or for another City department by its Director and the City Purchasing Officer, and processed through the Purchasing Division.

4.2 Procurement of Social Services Pursuant to a Plan Approved by City Council

4.2.1 The Department develops a number of Plans in accordance with the requirements of various funding sources. These Plans are developed through a citizen participation process, may involve public hearings and are approved by the City

Council. In addition, the review process described below in 4.3.2 has been applied prior to development of these Plans.

- 4.2.2 If a Plan specifies that one or more contracts will be entered into pursuant to the Plan, and also specifies the goal, amount and term, and the name of the Contractor, which is a non-profit organization or public agency, an RFP shall not be required for the resulting contracts.
- 4.2.3 The contracts entered into pursuant to this section 4.2 shall not be subject to City Council approval as required in §5-5-19 R.O.A. 1994, unless a City Councilor has requested a special report on the contract from the Mayor or has requested approval of said contract by the full Council.
- 4.2.4 The renewal of a contract entered into pursuant to this section 4.2 shall be subject to Chapter VII of these regulations.

4.3 Procurement of Social Services Pursuant to the City General Fund Appropriation Approved by City Council

- 4.3.1 The Department receives an annual allocation of City General Funds from the City Council. These funds, defined in the City budget process as the "Contract Services" line item, includes appropriations for Social Services contracts to be provided by specific non-profit organizations and public agencies. If the appropriating documentation specifies the goal, amount and term, and the name of the Contractor, which is a non-profit organization or public agency, an RFP shall not be required for such contracts; provided, however, that an RFP may be required for such contracts as a result of the assessment process described in this Section.
- 4.3.2 As a result of R-03-224, Enactment 99-2003, the City Council and Department staff have reviewed Department goals and City General Fund programs associated with those goals in connection with City General Fund contracts. Funding levels, areas of project priorities, and specific desired outcomes have been adjusted and a schedule of RFPs for selected areas of program strategies has been developed for the period of FY2005 through FY2007. Where appropriate, such as in the case of a sole source contract, a competitive RFP process has not been required.
- 4.3.3 The contracts entered into pursuant to this section 4.3 shall not be subject to City Council approval as required in §5-5-19 R.O.A. 1994, unless a City Councilor has requested a special report on the contract from the Mayor or has requested approval of said contract by the full Council.
- 4.3.4 The renewal of a contract entered into pursuant to this section 4.2 shall be subject to Chapter VII of these regulations.

4.4 Procurement of Specialized Social Services through Request for Qualifications (RFQ)

- 4.4.1 The Department has determined that certain Social Services are best procured by prequalification of potential Offerors rather than selection at the time a project or funding is identified. In order to accommodate the need to seize opportunities as they arise, the Department has developed an RFQ process.
- 4.4.2 An RFQ process may be used for the prequalification of Offerors wishing to develop affordable housing in the City. Pre-qualified agencies, which may also include private, for-profit companies, shall be authorized to submit opportunities for

development of non-City property to an appropriate City department as they arise or when offers are solicited by the department.

- 4.4.3 The Department may designate other Social Services for which an RFQ process may be used. The Director shall make a written determination that project quality and efficiency will best be served through use of the RFQ process in the procurement of the applicable types of Social Services and indicate the reasons for his determination. The Department shall consult with the City Purchasing Officer as appropriate.
- 4.4.4 The RFQ document shall establish the prequalification requirements which must be met in order for Offerors to submit an offer for development of affordable housing, or provide goods and services in other approved areas of Social Services.
- 4.4.5 In most cases, Offerors may respond to an RFQ at any time during the life of the program. The RFQ, unless otherwise stated in the document or by the notice to Offerors, shall not have a due date, or a closing date for the submittal of offers.
- 4.4.6 With respect to notice of an RFQ, addenda to an RFQ, modification or withdrawal of an RFQ, evaluation of offers received as a result of an RFQ, and protest of an RFQ, the process established below for RFP's shall apply in all substantive respects.
- 4.4.7 From time to time, following evaluation of various offers in response to an RFQ, the Ad Hoc Committee will provide the Director with written notice of Offerors which have been prequalified by the Committee. Written documentation of the reasons for selection shall be kept as a public record. Unsuccessful Offerors will be notified in writing of their non-selection and may appeal the decision to the Director in accordance with Section 5.7.3 below.
- 4.4.8 The Department reserves the right to reject any and all responses to an RFQ when it is in the best interest of the Department. Notice of rejection of all offers (cancellation of the RFQ) shall be provided to all Offerors that have submitted a response to the RFQ. The notice shall contain the reason for cancellation.

4.5 Procurement of Social Services for Emergencies or Urgent Needs

In the event of an unforeseen and dangerous situation requiring immediate action to preserve the peace, health, or safety of persons or property within the jurisdiction of the City or prevent significant loss, the Department may purchase Social Services in excess of \$55,000 by contract without a competitive solicitation or in accordance with an expedited competitive process, as approved by the Director. Such emergency purchases shall be reported to the City Council in quarterly purchasing reports. The Director shall make a determination, in writing, that an emergency situation exists identifying the reasons for his determination and establishing the appropriate process for obtaining a contract. Complete documentation, including, but not limited to, the Director's determination, and any proposals or pricing submitted by Offerors shall be maintained by the Department for public inspection.

Chapter V Request for Proposals Process for Social Services

5.1 Conditions for Use

An RFP is required for the procurement of Social Services unless exempted or an alternate competitive process applies as set out in Chapter IV above. Only the Department may issue an RFP for Social Services, unless otherwise approved by the City Purchasing Officer.

5.2 Notice of Request for Proposals

5.2.1 Notice of a Request for Proposals will be provided by:

- (a) Publication of an advertisement stating the general purpose of the RFP in a newspaper of general circulation a minimum of one time and at least ten days prior to the due date; and
- (b) Posting of the advertisement of the RFP on the home page of the City's Website or other appropriate online location approved by the City Purchasing Officer. This requirement may be waived in the event the online location is unavailable due to technical reasons.

5.2.2 At its discretion, the Department may also mail notices of the RFP to selected non-profit organizations and public agencies. Failure to mail such notices or the omission of a non-profit organization or public agency from the mailed notice shall not constitute a failure to provide adequate notice of the availability of an RFP.

5.2.3 Additional notice may also be required by the procurement laws or regulations of the applicable funding sources.

5.3 Addenda

5.3.1 An addendum to an RFP shall be in written form and clearly identified as an addendum.

5.3.2 An addendum shall refer to the portion of the RFP it amends and clearly stipulate the changes to be made.

5.3.3 Addenda shall be sent to all non-profit organizations and public agencies known to have received an RFP.

5.3.4 Addenda shall be distributed within a reasonable time to allow prospective bidders to consider them in preparing their offers. If the time and date set for receipt of proposal will not permit such preparation, an addendum shall allow an extension of time for receipt of offers.

5.3.5 Addenda will be used for but not limited to the following types of modifications:

- (a) to make any changes in the RFP, specifications, etc., such as changes in project description, project requirements, and opening dates;
- (b) To correct any defects or ambiguities;
- (c) To furnish to other Offerors information given to one Offeror if such information will assist the other Offerors in submitting offers or if lack of such information would prejudice the other Offerors.

5.4 Modifications or Withdrawal of Offers

5.4.1 An offer may be modified or withdrawn by the Offeror prior to the time set for submission of offers by delivering written notice to the location designated in the RFP as the place where offers are to be received. The Offeror must present proper identification before an offer can be modified or retrieved.

5.4.2 All documents relating to the modification or withdrawal of an offer shall be made part of the appropriate procurement file.

5.5 Submittal of Offers

Offers will be submitted to the Department in accordance with the method and at the time and place specified in the applicable RFP document.

5.6 Evaluation of Offers

Offers submitted in response to an RFP will be reviewed as follows:

5.6.1 The review/evaluation criteria for offers shall be stated in the RFP and may consist of, but is not limited to:

- (a) organizational capacity to deliver the services;
- (b) demonstrated understanding of the need for the requested services and the target population;
- (c) method of service delivery and number of persons to be served;
- (d) past performance (if applicable);
- (e) consistency of budget with program goals and reasonable administrative expenses.

5.6.2 Department staff will review submitted offers to ensure technical compliance. Technical compliance may include, but is not limited to:

- (a) submission of the offer within date and time, and location specified in the RFP;
- (b) inclusion of all portions of the offer package as specified in the RFP;
- (c) conformance with the general parameters of the service area to be addressed.

Failure to comply with submission of the technical requirements of the RFP may result in the exclusion of the offer from further review.

- 5.6.3 An Ad Hoc Committee will review the offers. The Ad Hoc Committee will consist of a minimum of three persons and may include members of affected citizens advisory groups or other affected citizens and Department staff. The Director will approve the composition of the Ad Hoc Committee and his/her written approval will be made part of the file.
- 5.6.4 During evaluation, offers submitted to the Department shall be kept confidential. The Department will use its best efforts to restrict distribution to those individuals involved in the review and analysis of the offers, but in any event, the City shall not be liable for disclosure of any information contained in the offers during the process. Upon approval of the Recommendation of Award in accordance with Section 5.7 below, the offers will be available for public inspection.
- 5.6.5 The Department reserves the right to reject any and all offers when it is in the best interest of the Department. Notice of rejection of all offers (cancellation of the RFP) shall be provided to all Offerors that have submitted an offer in response to the RFP. The notice shall contain the reason for the cancellation.

5.7 Recommendation of Award

- 5.7.1 The Ad Hoc Committee will provide the Director with a recommendation of award listing the offers in the order in which they are recommended. Written documentation of the reasons for selection shall be kept as public record. The Review Committee may include additional recommendations regarding the project as allowed by the RFP and/or proposed by the successful Offeror.
- 5.7.2 If the Director concurs with the Ad Hoc Committee recommendation, the Director will so notify the Offeror in writing and instruct staff to begin contract negotiations. If the Director does not concur with the Ad Hoc Committee recommendations he may request reconsideration by the Committee.
- 5.7.3 Unsuccessful Offerors will be notified in writing of their non-selection and may appeal the decision of the Director as follows:
 - (a) A written appeal must be submitted to the Director within ten (10) days of notification of the recommendation of award.
 - (b) The Director will have 30 days to respond to the appeal.
 - (c) The decision of the Director is final.

5.8 Protests

The specifications or any portion of an RFP or Recommendation of Award shall not be subject to protest at any time, except through the appeal process set out in Section 5.7.3 above.

5.9 Contract Negotiations

During contract negotiations, the Department shall have the right, if reserved in the RFP document, to request changes, additions or deletions to the proposals due to changes required in the project or services described in the RFP. In making such requests, a substantive change to the scope of services required in the RFP will not be made.

5.10 Term of Contract

Social Services contracts resulting from an RFP process shall have an initial term of one year and may be renewed for up to an additional two years subject to the provisions of Article VII below.

Chapter VI Approval of Contracts

6.1 City Council Approval Required.

Pursuant to Section 5-5-19 R.O.A. 1994, the City Council must approve all Social Services contracts entered into where:

- (a) the total amount of funds encumbered for that contract in a single fiscal year exceeds \$100,000;
- (b) the total amount of funds encumbered in a single fiscal year for Social Services contracts with that agency exceeds \$120,000;
- (c) any amendment to a Social Services contract which would increase the total amount of funds encumbered for that contract in a single fiscal year to more than \$100,000 or any amendment to a Social Services contract requiring Council approval pursuant to §§ 5-5-19(A)(4)(a) and (b) where the amendment or change to the contract increases the amount of the contract by 20% or more;
- (d) except that City Council approval shall not be required if the goal, amount and contractor of any such contract or amendment is included in the City of Albuquerque annual performance plan or has been previously approved by the Council in an appropriating resolution;
- (e) The exception contained in § 5-5-19(A)(4)(d) shall not apply if a Councillor has requested a special report on a particular contract from the Mayor, which report shall be due within 30 days of the request, and a Councillor has requested approval of said contract by the full Council.

6.2 Signature Authority.

Pursuant to Administrative Instruction 1-1, the City's Chief Administrative Officer has delegated to the Director the authority to enter into Social Services contracts of any amount on behalf of the City. The Director shall execute such contracts following City Council approval if required.

Chapter VII Eligibility of Offerors and Contractors

7.1 Non-profit Organizations and Public Agencies

All non-profit organizations and public agencies are eligible to submit offers in response to an RFP or RFQ for Social Services or to contract with the Department for Social Services. A non-profit organization refers to any organization designated as a 501(c) by the Internal

Revenue Service. A public agency refers to any agency or political subdivision of the State of New Mexico. Private, for profit companies are eligible to submit offers only as specifically provided in these Regulations.

7.2 Consortium

A consortium of more than one entity may submit an RFP or RFQ for Social Services and/or enter into a contract for Social Services.

7.2.1 In the event one or more members of the consortium ceases participation or is deemed ineligible, the remaining members of the consortium may request to continue providing all or a portion of the services required.

7.2.2 The applicable department shall determine, based on the services required and other applicable factors, whether the contract may be continued with the remaining members of the consortium.

7.3 Ineligible Entities

Certain non-profit organizations and public agencies are not eligible to respond to RFPs. These include:

7.3.1 Non-profit organizations and public agencies that owe a debt to the City as a result of unresolved questioned costs or disallowed costs. These entities will not be eligible for funding until full payment has been made to the City.

7.3.2 Non-profit organizations or public agencies that have had a contract terminated for cause for a period of two years beyond the date of contract termination. In the event a contract has been terminated for cause and the entity has additional contracts with the City, the additional contracts may be terminated for convenience and no proposals will be accepted from such entity.

7.3.3 Non-profit organizations or public agencies debarred under these Regulations or those of any City, state or federal agency.

Chapter VIII Service Performance Standards

8.1 Establishment of Service Performance Standards

The Department shall establish service performance standards for all contracts for Social Services and the standards applicable to each contract shall be included in the contract for such services as goals.

8.2 Annual Monitoring of Contract Goals

All contracts shall be monitored annually prior to contract renewal to determine if the service performance standards/goals established by the Department have been met. The Department shall keep for public inspection written documentation of whether goals have been met. Because the contracting process requires a determination of goal compliance prior to the completion of the funding year, the Department reserves the right to make a determination of whether goals were met, based on a history of the prior year(s) goal performance, the Contractor's performance to date, and the Contractor's anticipated performance in achieving the goal in the current year.

8.3 Failure to Meet Service Performance Standards

If the contract review by Department staff determines that a Contractor has not met at least 90% of its goals as stated in its Social Services contract for two consecutive years prior to the contract review, and it has been determined that extenuating circumstances beyond the control of the Contractor did not preclude its ability to meet the goals, the contract shall not be renewed and future contracts for these Social Services shall be procured by RFP.

8.4 Notice to City Purchasing Officer

In the event a Social Services contract is suspended or terminated by the Department for any reason, notice of the termination or suspension shall be provided by the Department to the City Purchasing Officer.

**Chapter IX
Debarment**

9.1 Right to Conduct Debarment Proceedings

The Department shall have the right to conduct a debarment proceeding, in accordance with the *Purchasing Rules and Regulations*, of any Offeror which has submitted an offer or contracted for Social Services with the Department. Approval to conduct such a proceeding shall be obtained from the City Purchasing Officer in each specific case.

9.2 Effect of Debarment

Any Contractor debarred by the Department shall be deemed debarred for the applicable period for all City procurements and shall not be eligible to submit an offer or enter into a contract with the City for such time.

These *Social Services Contracts Procurement Rules and Regulations* are effective for all procurements of Social Services begun after the approval dates indicated below.

Approved by:

Valorie A. Vigil, Director
Department of Family and Community Services

Ronn D. Jones, Purchasing Officer

Date

Date