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General Instructions to Suppliers

The following terms, conditions and instructions apply (unless otherwise noted) to all Knoxville's Community Development Corporation's (KCDC) solicitations whether they are quotations, bids, proposals, requests for qualifications or other types of solicitations. The term "supplier" means bidder, supplier, proposer, quoter, contractor and all other terms implying or meaning one who is responding to an opportunity with KCDC. The submission of a response means that the supplier understands and agrees with KCDC's "General Instructions to Suppliers." Suppliers will clearly note any variance on the submittal document. KCDC will be the sole judge as to whether the variance is "material" or "immaterial" to the bid.

1. **ACCEPTANCE**

Suppliers shall hold their price firm and subject to acceptance by KCDC for ninety calendar days from the date of the opening unless otherwise directed by KCDC.

2. **ALTERATIONS OR AMENDMENTS**

Alterations, amendments, changes, modifications or additions to the Purchase Order shall not be binding without KCDC's prior written approval.

3. **APPROPRIATION**

In the event KCDC's Board does not appropriate funds for the goods and/or services or insufficient funds exist to purchase the goods and/or services, awards and/or contracts shall terminate upon the expenditure of previously appropriated funds with no further obligations owed to or by either party.

4. **ASSIGNMENT/SUBCONTRACTING**

Supplier shall not assign the agreement, its obligations or rights hereunder to any party, company, partnership, incorporation or person without KCDC's prior written specific consent. Any such assignment or any interest or any money due or to become due without KCDC's prior written consent shall be void.

5. **AWARD/ REJECTION OF RESPONSES**

- a. KCDC awards to the highest rated, responsible supplier complying with the conditions of the solicitation and is in KCDC's best interest. KCDC reserves the right to reject any and all responses and to waive any informality in the responses received whenever KCDC determines that such rejection or waiver is in KCDC's best interest.

- b. KCDC reserves the right to reject responses from any supplier who has previously failed to perform properly or to complete work or contracts of a similar nature on time; who is not in a position to perform the work; or who has habitually and without just cause neglected the payment of bills or otherwise disregarded his obligations to other suppliers, subcontractors and/or employees.
- c. KCDC will check all respondents against State of Tennessee and federal debarment databases. Any listing on these showing an active debarment is sufficient grounds for KCDC to reject the offer from the supplier.

6. **AWARD RESULTS**

As soon as practicable after evaluation, KCDC will post the award decision and the proposal tabulation to its web page. KCDC does not typically provide individual notices to suppliers.

7. **BID WITHDRAWAL**

A supplier may withdraw or amend a solicitation response before the date and time set for receipt of bids without stating a reason. Suppliers cannot amend a bid after the bid opening unless the amendment does not materially affect the price, quality, quantity or delivery of the service. After the bid opening, KCDC must give approval for bid amendment or withdrawal. If granted, withdrawal after the due date is non-reversible. The supplier must submit clear proof of a clerical error for KCDC to approve withdrawals or amendments. Amendment and withdrawal is ultimately subject to KCDC's discretion. Bid withdrawal may affect your bid bond (if any).

8. **BOOKS AND RECORDS**

The supplier shall maintain all books, documents, accounting records and other evidence pertaining to the goods and services provided under an agreement and/or contract and make such materials available at its offices at all reasonable times during the contract period and for three years (and as required by federal law and/or regulations) from the date of the final payment under an agreement or contract. This shall be for inspection by KCDC or any other governmental entity or agency participating in the funding of an agreement or contract, or any authorized agents thereof. Upon request, the supplier shall furnish copies of said records. Such records shall include those books, documents, payroll and accounting records that represent the supplier's costs of manufacturing, acquiring or delivering the products and services governed by an agreement or contract.

9. **COMPLIANCE WITH ALL LAWS**

Supplier agrees to comply with all federal, state and local laws, statutes, ordinances and regulations in any manner affecting the provision of goods and/or services, and all instructions and prohibitive orders issued regarding the work and shall obtain all necessary permits.

10. **CONFIDENTIALITY OF DATA, PROPERTY RIGHTS IN PRODUCTS AND COPYRIGHT PROHIBITION**

The supplier agrees that all information, data, findings, recommendations, bids, et cetera by whatever name described and in whatever form secured, developed, written or produced by the supplier in furtherance of this contract shall be KCDC's property. The supplier shall take such action as is necessary under law to preserve KCDC's property rights while such property is within the control and/or custody of the supplier. The supplier specifically waives and/or releases to KCDC any cognizable property right of the supplier to copyright, license, patent or otherwise use of such information, data, findings, recommendations, responses, et cetera.

The supplier understands and agrees that data, materials and information disclosed to supplier may contain confidential and protected data. Therefore, the supplier promises and assures to not disclose or discuss KCDC's data, material and information gathered, based upon or disclosed to the supplier for the purpose of this contract, without KCDC's prior written consent.

11. **CONTACT POLICY**

From the issuance of a solicitation until an award, the supplier shall not contact anyone other than the KCDC Procurement Division about the solicitation except as directed by Procurement Division staff. Information obtained from anyone other than the KCDC Procurement Division shall not affect the risks or obligations assumed by the supplier or relieve the supplier from fulfilling any of the conditions of the agreement and/or contract for the purpose of a project. Such unauthorized contact can disqualify the supplier from participation in the solicitation process.

Suppliers must submit all questions pertaining to the bid and/or bid documents in writing to the Procurement Division at purchasinginfo@kcdc.org. KCDC does not accept questions via telephone.

12. **CONTRACTS**

KCDC posts a sample contract and contract rider to its web page for potential suppliers to review. While these are sample documents, actual contracts and riders will be similar in format. By submitting a response to a solicitation, suppliers are certifying that they have reviewed the sample contract and rider and are comfortable signing a similarly formatted contract in the event they receive the award. Suppliers must raise questions about the contract form and requirements during the solicitation process.

13. **COOPERATIVE PROCUREMENT**

KCDC may use properly bid and awarded solicitations from other governmental agencies in lieu of issuing its own solicitations-provided such language was in the solicitation and providing that it is in KCDC's best interest.

KCDC also often asks suppliers quoting work to indicate whether other governments may use the award at the same price (plus any delivery charges due to distance). In such cases, the supplier may, without harming their award, refuse to extend the terms to other governments. If the supplier extends the terms to other governments, the transactions are solely between the other government and the supplier.

14. **DEBRIEFING**

If requested, KCDC staff will conduct a debriefing meeting to discuss an award decision. If you are interested in such a meeting, please contact the KCDC Procurement Division.

15. **DELIVERY**

All deliveries shall be to the designated KCDC property and they must be Freight on Board (FOB) Knoxville, Tennessee with all delivery, handling, surcharges and other charges included in the bid price. Failure to do so may cause rejection of the bid. KCDC typically does not pay surcharges.

16. **EXPENSES INCURRED**

All expenses incurred in the preparation and submission in response to a solicitation shall be borne by the supplier.

17. **FAILURE TO ENFORCE**

Past failure to enforce a contract provision does not mean that KCDC has waived its rights to enforce said provision or any other provision.

18. **FEDERALLY REQUIRED ORDERS/DIRECTIVES**

Both parties agree that they will comply with the following laws and directives that KCDC has received from HUD and other branches of the federal government. These orders and/or directives shall be a part of any award and/or contract:

- a. Executive Order 11246: "Equal Employment Opportunity."
- b. Copeland "Anti-Kickback" Act.
- c. Clean Air Act.
- d. Energy Policy and Conservation Act.
- e. Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- f. Public Law 88-352, Title VI of the Civil Rights Act of 1964.
- g. Public Law 90-284, Title VIII of the Civil Rights Act of 1968, popularly known as the Fair Housing Act.
- h. The Age Discrimination Act of 1975, which prohibits discrimination based on age.

- i. Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- j. 24 CFR 85.36(1) and Section 6002 of the Solid Waste Disposal Act.
- k. Lead Based Poisoning Prevention Act (42 U.S.C. 4821-4846 as implemented by 24 CFR Part 35).
The mention herein of any law, directive, statute or executive order is not an indication that such law, directive, statute or executive order is necessarily applicable nor is the failure to mention any statute or executive order intended as an indication that such statute or executive order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in an agreement, shall be deemed to have been inserted herein, and an agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, the agreement and/or contract shall forthwith be physically amended to make such insertion or correction upon the application of either party.
- l. Procurement of Recovered Materials
In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the supplier shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition unless the supplier determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the supplier purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the supplier: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

- m. 41 CFR §60-1.4(b) Equal opportunity clause prohibiting workplace discrimination and its application to both prime and subcontractors.

19. **GOVERNING LAW**

The laws of the State of Tennessee and all applicable federal laws and regulations govern KCDC purchase orders. All obligations of the parties are performable in Knox County, Tennessee. The Chancery Court and/or the Circuit Court of Knox County, Tennessee, shall have exclusive and concurrent jurisdiction of any disputes arising hereunder.

20. **HUD FORMS/DOCUMENTS**

The supplier should review the documents below for important details about a solicitation and an award and/or contract. This reference incorporates these documents as if they are specifically in the solicitation document. These documents bind suppliers when they submit a response to a solicitation and the particular document has relevance to the solicitation.

Go to http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips to access these documents. If you cannot find the document there or if you need assistance, contact purchasinginfo@kcdc.org.

HUD Form 2554	Supplementary Conditions to the Contract for Construction
HUD Form 4010	Applicability: Construction work Federal Labor Standards Provisions
HUD Form 5369	Applicability: Construction with Community Planning and Development Program funds HUD's Instructions to Suppliers for Contracts
HUD Form 5369 A	Applicability: All solicitations Representations & Certifications of Suppliers
HUD Form 5370	Applicability: All solicitations General Conditions of the Contract for Construction
HUD Form 5370 C	Applicability: All construction or development contracts greater than \$100,000 General Conditions for Non-Construction Contracts-Section I (with or without Maintenance)
HUD Form 5370 EZ	Applicability: <ol style="list-style-type: none">1. Non-construction contracts (without maintenance) greater than \$100,000 - use Section I;2. Maintenance contracts (including non-routine maintenance as defined at 24 CFR 968.105) greater than \$2,000 but not more than \$100,000 - use Section II;3. Maintenance contracts (including non-routine maintenance), greater than \$100,000 – use Sections I and II. General Conditions of the Contract for Small Construction Applicability: Construction contracts greater than \$2,000 but not more than \$100,000.

21. **INCLEMENT WEATHER/OPERATIONAL INTERRUPTIONS**

During inclement weather, the Procurement Division operates under the following procedures concerning solicitations, closures and delays:

- a. If KCDC's CEO closes the company prior to the time set for solicitation opening, all solicitations due that day occur on the next operational business day.
- b. Other weather/interruptions are at Procurement Director's discretion.
- c. KCDC is not responsible for any commercial carrier's decision regarding deliveries during weather occurrences or during any other operational interruption.

22. **INDEMNIFICATION/HOLD HARMLESS**

Supplier shall indemnify, defend, save and hold harmless KCDC, its officers, agents and employees from all suits, claims, actions or damages of any nature brought because of, arising out of, or due to breach of the agreement by supplier, its subcontractors, suppliers, agents or employees or due to any negligent act or occurrence or any omission or commission of supplier, its subcontractors, suppliers, agents or employees.

23. **INDEPENDENCE**

The supplier shall acknowledge that it and its employees serve as independent suppliers.

24. **INFORMALITIES**

KCDC reserves the right to waive informalities and irregularities as minor defects in a bid response or variations from the exact requirements of the solicitation provided the defects or variations do not affect the price, quality, quantity or delivery of the service.

25. **INSPECTION**

The supplier is responsible for thoroughly inspecting the site of the proposed work and for becoming completely familiar with the work circumstances. The supplier's failure to do so will not result in additional payments to the supplier.

26. **INSURANCE**

KCDC's solicitation document may include specific insurance requirements. If so, the supplier will provide a Certificate of Insurance matching those requirements to KCDC. Suppliers must review the insurance requirements with their insurance agents and attest that they can provide the required insurance. KCDC's solicitations have a "Yes/No" check box to indicate that the supplier has reviewed the requirements and can provide the insurance certificates within the specified timeline.

Should the certificate expire during the term of the award, the supplier is responsible for providing an updated certificate before the expiration date. KCDC will not permit suppliers to work until an acceptable certificate of insurance is in place.

27. **INTEREST OF CURRENT & PAST MEMBERS, OFFICERS OR EMPLOYEES**

No member, officer or employee of KCDC, no member of KCDC's governing body, and no other public official who exercises any functions or responsibilities with respect to the project shall, during his tenure or for one year thereafter, have any interest, direct or indirect, in a contract, agreement or purchase order or the proceeds thereof.

28. **INTERPRETATIONS**

KCDC is not responsible for oral interpretations of specifications. Submit written requests for interpretation as indicated in the solicitation document. KCDC posts addenda (official changes to or interpretations of specifications) to its web page. It is the supplier's responsibility to examine the web page for addenda. All such addenda become part of the contract and bind suppliers to such addenda.

29. **INVOICING**

The following guidelines apply to all KCDC awards whether they result in purchase orders or contracts. However contractual awards often have slight variations in the payment cycle. These variations are explained in the award meeting with the supplier.

- a. Work is not to be performed nor are goods to be delivered until a purchase order is in place. As purchase orders authorize work and obligate payment, if a supplier performs work without a purchase order in place, KCDC does not have a legal obligation to pay for the work.
- b. Depending upon the nature and volume of the award, suppliers may be asked to:
 - 1. Bill once per month or to bill each individual job.
 - 2. Provide a monthly statement that recaps all charges for the month.
 - 3. Transmit invoices to the site manager or ordering official.
 - 4. Leave an invoice at the work site or email or fax invoices.
- c. Invoices must:
 - 1. Be numbered.
 - 2. Have a date on them that is after the work is completed or goods delivered.
 - 3. Show the purchase order number.
 - 4. Breakdown pricing according to the bid structure. For instance, if the award is priced by the hour, then the invoice needs to show the hours and rates. This is important so that KCDC can quickly compare the rates charged with the approved rates. For example:

ACME Company 123 Any Street Sometown, TN 37999 865.555.1212			
Invoice Date	05-31-15		
Invoice Number	12345		
Purchase Order Number	123456-123456		
Service/Delivery Date	05-28-15		
Service/Goods Details			
Item	Rate	Quantity	Total
Labor Hours-Laborer (per bid)	\$20.00	6	\$120.00
Labor Hours-Technician (per bid)	\$25.00	4	\$100.00
Rock (per ton with 8% discount)	\$50.00	1	\$50.00
Dumping Fee	\$100.00	1	\$100.00
Boards, 2 x 4, pressure treated (per bid)	\$1.00	75	\$75.00
Grand Total			\$445.00

5. Be suitable for scanning since KCDC does not maintain paper records.

- d. Suppliers are required to submit invoices within 90 days following the delivery of the goods or services. KCDC may deny invoices submitted after the 90 day threshold.
- e. KCDC's purchases of goods are exempt from Tennessee sales and use tax pursuant to Tennessee Code Annotated 67-6-329(a) (4). KCDC is exempt from the Federal Excise tax. Contractors are subject to Tennessee sales and use tax on all materials and supplies used in the performance of a contract, whether such materials and supplies are purchased by the contractor, produced by the contractor, or provided to the contractor by KCDC, pursuant to Tennessee Code Annotated 67-6-209. The contractor will pay all taxes incurred in the performance of an awarded contract.

Upon the placement of a purchase order or the award of a contract, KCDC will provide a State of Tennessee Sales Tax Exemption form to the supplier. KCDC will not pay taxes on invoices.

- f. KCDC does not normally pre-pay for goods or services.
- g. KCDC pays by electronic transfer (ACH) only.

30. **LIMITATION OF LIABILITY**

In no event shall KCDC be liable for any indirect, incidental, consequential, special or exemplary damages or lost profits, even if KCDC has been advised of the possibility of such damages.

31. **MINORITY AND WOMEN-OWNED BUSINESSES**

KCDC desires to conduct as much business as possible with minority and women owned businesses. By definition, these businesses are at least 51% owned and operated by a minority or woman. KCDC also encourages its suppliers when they subcontract to utilize minority and/or women owned businesses.

In order to assist the supplier in finding Minority and Women Owned Businesses, KCDC provides these sites that list small, women-owned (WOB) and minority-owned (MOB) businesses.

Hispanic Chamber of Commerce:

<http://www.hccet.org/businesses/?PHPSESSID=c8dfc5b1419977db72dd8d67290d679f>

City of Knoxville:

<http://knoxvilletn.gov/cms/One.aspx?portalId=109562&pageId=11078433>

State of Tennessee:

<http://www.tennessee.gov/generalservices/article/godbe-enterprise-directory>

Tennessee Minority Supplier Development Council:

<http://www.tmsdc.net>

Suppliers are strongly encouraged to use the information on these web pages and then, as appropriate, obtain quotes from WOB and MOB.

32. **NON-CONFORMING TERMS AND CONDITIONS**

Should a supplier submit non-conforming terms and conditions, KCDC reserves the right to request the supplier withdraw non-conforming terms and conditions that do not materially affect the price, quality and/or delivery of the goods and/or services.

33. **NON-DISCRIMINATION AND NON-CONFLICT STATEMENT**

The supplier agrees not to exclude persons on the grounds of handicap, age, race, color, religion, sex or national origin from participation in, or deny benefits to, or otherwise subject to discrimination in the performance of an agreement, or in the employment practices of the supplier. The supplier shall post notice of such non-discrimination and shall post it in a conspicuous place available to all employees and applicants. The supplier covenants that it complies with the Fair Wage and Hour Laws, the National Labor Relations Act and other federal and state employment laws as applicable. The supplier covenants that it does not engage in any illegal employment practices.

The supplier covenants that it has no public or private interest and shall not acquire directly or indirectly any interest that would conflict in any manner with the provision of its goods or performance of its services. The supplier warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of KCDC as wages, compensation or gifts in exchange for acting as an officer, agent, employee, subcontractor or consultant to supplier in connection with any goods provided or work contemplated or performed relative to an agreement and/or contract.

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) “Nondiscrimination in Federally Assisted Programs” states “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”

Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) prohibits employers from discriminating against employees on the basis of sex, race, color, national origin, and religion. It generally applies to employers with 15 or more employees, including federal, state, and local governments. Title VII also applies to private and public colleges and universities, employment agencies, and labor organizations.

KCDC's policy requires that all its services and activities be administered in conformance with the requirements of Title VI & VII. This extends to the suppliers that KCDC awards/contracts with. Suppliers must be compliant with Title VI.

34. **NON-ESCALATION**

Unless otherwise specified within the solicitation, the prices reflected on the agreement and/or contract shall remain firm with no provision for price increases during the term of the contract.

35. **PAYMENT**

- a. KCDC no longer issues paper checks-instead KCDC pays suppliers electronically via direct deposit (ACH). Additional information is on KCDC's webpage. KCDC has a Supplier Portal from which suppliers may monitor payments made. When the supplier sets up portal access, they can pick automatic email notification each time KCDC makes a payment. Without this option, the supplier must log on periodically to ascertain payment status. KCDC strongly urges suppliers to set-up the Supplier Portal with a generic email address as it is self-service and you must know the email address and password. Email addresses for specific employees are problematic if the employee leaves the organization.
- b. Payments occur on or about the 15th and the last business day of each month, provided the supplier provides invoices in accordance with all requirements outlined herein. For payment on the 15th, the KCDC employee who ordered must have the invoice by the 5th day of the month. For payment on the 30th, the KCDC employee who ordered must have the invoice by the 20th. This allows time for internal approvals of the invoices. Before KCDC issues a payment, the KCDC staff member responsible for the purchase must approve payment (indicating that the goods or services were satisfactory) and thus authorize Accounts Payable to issue payment.

Accounts Payable and/or the Procurement Division must have time to verify that the invoice reflects the correct contract pricing. Payments for on-going services (such as construction contracts) occur once per month.

- c. KCDC asks for a prompt payment discount percentage in its solicitations. Suppliers may indicate no discount or any discount they may offer.

36. **PRE-BID OR PRE-PROPOSAL MEETINGS**

Some solicitations specifically call for pre-bid meetings. While KCDC believes there is value in attending KCDC's pre-bid meetings, these meetings are very seldom mandatory. KCDC will post the sign in sheets from these meetings to its webpage shortly after the meeting concludes.

Generally, pre-bid meetings occur at KCDC's Main Office Complex at 901 N. Broadway. However at times they are held at the site. On occasion pre-bid meetings start at KCDC's Main Office Complex and then concludes at the site. Consult the information on the solicitation's cover page for details.

37. **PROCUREMENT METHODS**

KCDC uses a variety of procurement methods to achieve its procurement needs. Each method has its own requirements and details are below. For additional information, contact the Procurement Division.

a. Request for Written Quotes

For goods and services valued at \$3,000 but no more \$25,000, KCDC has to obtain quotes from three or more suppliers. However, as part of KCDC's outreach to small businesses, these opportunities are typically posted to KCDC's web page for all interested parties to consider. Although the request for quote is in written format, these are still quotes and not formal bids. They tend to be shorter documents and have shorter bid timeframes. Formal bidding rules do not apply, though federal Davis Bacon rules and state licensing laws may still apply. Requests for Written Quotes can also take the form of proposals (see below).

b. Invitation for Bids

For goods and services valued at \$25,001 or more, sealed bids (or proposals) are required. These documents typically are longer and a minimum of 15 days for supplier response is given. All of the formal bidding rules apply. Typically KCDC evaluates these solicitations solely on cost, look for evaluation specifics in the solicitation document.

c. Request for Proposals

If there are factors other than cost that will determine the successful supplier, this method is used. These documents typically are longer and ask for a lot of information from the supplier. If it exceeds \$25,001 all of the formal bidding rules apply.

d. Request for Qualifications

This method is used to hire architects and engineers. Pursuant to state and federal laws, costs are not initially considered in the selection process. Instead, qualifications alone are used to arrive at the "best" supplier. Then cost negotiations begin with the highest scoring supplier.

General note to thresholds: KCDC looks at purchases cumulatively (by supplier, by commodity and by year) to determine the appropriate threshold to use.

38. **PROOF OF FINANCIAL AND BUSINESS CAPABILITY**

Suppliers shall furnish, upon request, satisfactory evidence of their ability to furnish products or services in accordance with the terms and conditions of a specification. KCDC shall make the final determination as to the supplier's ability.

39. **PROPRIETARY INFORMATION**

KCDC operates under Tennessee's Open Records Act and all information in KCDC's possession is subject to disclosure upon request. This applies whether or not the supplier has stamped such information as "confidential," "proprietary" or other similar phrases.

40. **PROTESTS**

This section applies only to "formal sealed solicitations" and not to "requests for written quotes." Requests for written quotes are not bids and protest procedures do not apply.

Suppliers may protest the process or award of a solicitation for serious violations of KCDC's procurement policy. KCDC must receive protests against the process at least 72 hours before its due date. Protests against an award must be received within 5 calendar days after award (i.e. when results are posted to KCDC's webpage), or the protest will not be considered. Protests must be in writing and submitted to the Procurement Director. The Procurement Director will forward the protest to the CEO who shall issue a written decision on the matter. The CEO may suspend the procurement pending resolution of the protest if warranted by the facts presented. KCDC will advise the protestor as soon as possible in writing as to the action taken.

a. Protests shall include, as a minimum, the following information:

1. Names, addresses and telephone number(s) of the protestor(s).
2. The solicitation number and project title.
3. A detailed statement of the basis for the protest.
4. Supporting evidence or documents to substantiate any arguments.
5. The form of relief requested (e.g. reconsideration of their offer).

b. Appeals

If a protestor is not satisfied with the decision of the CEO, the protestor may appeal to the KCDC Board. Such appeals shall be in writing (see above) and must be submitted within five business days after the CEO's written decision is released. The written documentation is to include language that details how the written decision of the CEO is in error.

41. **PURCHASE ORDERS OR CONTRACTS ARE REQUIRED**

KCDC requires (though there are a few approved exceptions - check with the Procurement Division for details) the issuance of a purchase order or a signed contract before work commences or goods delivered. Alternatively, in emergency or quick turn-around situations, KCDC may use credit cards for payments. If a supplier is instructed to deliver goods or services without a purchase order or contract, the supplier is to contact the Procurement Division for a decision as to whether to proceed or not.

42. **REJECTION OF RESPONSES**

KCDC may reject responses from any or all suppliers if it is in its own best interest.

43. **REPORTING**
HUD requires, for federal grant awards of \$25,000 or more made after October 1, 2010, prime grant awardees (i.e. KCDC) must report associated first-tier sub-grants or sub-contracts of \$25,000 or more and prime awardee executive compensation data (of the top five paid executives) to the federal government. At this time, this applies only to “capital” funds. If KCDC has the need, the successful supplier will be required to report this information to KCDC so that KCDC can then properly record it as the federal government requires.
44. **REQUIREMENTS CONTRACTS**
Unless otherwise specified, any requirements and/or contracts/agreements shall be an “open-end” type of agreement and there is no guarantee that KCDC will require any specified or minimum level of products or services. KCDC plans to use the successful supplier exclusively, but KCDC reserves the right to purchase these goods/services elsewhere if it is in KCDC’s best interest.
45. **RESTRICTIVE OR AMBIGUOUS SPECIFICATIONS**
It is the supplier’s responsibility to review the entire solicitation packet and to notify the Procurement Division if the specifications unnecessarily restrict competition or are conflicting or ambiguous. The Procurement Division must receive any such question regarding the specifications or bidding procedures with enough time remaining before the opening for an addendum to be issued. Typically, such information must be supplied to Procurement at least five business days prior to the solicitation’s due date.
46. **RIGHTS IN DATA AND PATENT RIGHTS**
KCDC shall have exclusive ownership of all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by the supplier pursuant to the terms of the agreement and/or contract, including but not limited to, reports, memoranda and/or letters concerning the research and reporting tasks of the agreement and/or contract.
47. **RIGHT TO INSPECT**
KCDC reserves the right to make inspections of service provision and/or the supply of goods.
48. **ROYALTIES AND PATENTS**
The supplier guarantees that he has full legal rights to materials, supplies, equipment, machinery, articles, software and other items involved in the contract. The award and/or contract price shall include compensation for all royalties and costs arising from patents, trademarks and copyrights that are, in any way, involved in the award and/or contract. It shall be the supplier’s responsibility to pay for all such royalties and costs. During the pendency of any claim against supplier or KCDC with respect to supplier's ownership and/or authority, KCDC may withhold payment of any sums otherwise owed hereunder. The supplier will hold harmless and indemnify KCDC, its employees, agents and officers for trademark, intellectual property infringement and copyright infringements that the supplier causes during performance of the work.

49. **SECTION 3 OF THE HOUSING & URBAN DEVELOPMENT ACT OF 1968 AND VENDORS**

All contracts awarded are subject to Section 3 requirements. Suppliers shall seek to fill all positions that are needed and unfilled with residents of KCDC communities. For additional information, please go to <http://www.hud.gov/offices/fheo/section3/Section3.pdf>. The successful supplier will supply KCDC with job announcements for any open employment positions. Additionally, the successful supplier will supply the same job announcement to the Knoxville-Knox County Community Action Committee's Workforce Connections group. Fax these to 865-544-5269.

A Section 3 resident is one who lives within a public housing authority's site(s). In addition, one who lives in an area where a HUD financially assisted program takes place and whose income is below HUD's low-income requirements.

A Section 3 business is one that:

- a. Is at least 51% owned by a Section 3 resident; or
- b. Employs Section 3 residents for at least 30% of its employee base; or
- c. Makes a commitment to sub contract at least 25% of the project's dollars to a Section 3 business.

50. **SMALL BUSINESS GOAL**

KCDC has a goal of contracting with qualified small businesses for at least 20% of its annual dollar expenditures for goods and services. A small business is defined as a business that is a continuing, independent, for profit business which performs a commercially useful function with residence in Tennessee and has total gross receipts of no more than \$10,000,000 averaged over a three-year period and employs no more than 99 persons on a full-time basis.

51. **SMALL BUSINESS MEETING**

If one or more firms specifically request or if KCDC staff members determine that the need exists, a meeting shall be scheduled and held within seven calendar days after the publication of a formal solicitation to review KCDC's procurement policies and procedures and/or to review solicitation requirements.

52. **SMOKING POLICY**

On July 31, 2018, KCDC implements a new Smoke Free and it applies to you and your employees. Specifically, the policy (which is HUD required) mandates:

- No smoking on KCDC property
- No e-vape or similar usage on KCDC property
- The Smoke Free policy applies in personal or corporate vehicles on KCDC's property

HUD definitions include:

- ✓ “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. “Smoking” also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.
- ✓ “Electronic Smoking Device” means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen or under any other product name or descriptor.
- ✓ Property means all buildings, parking lots, streets, structures and land owned by KCDC.

Should vendor staff be observed violating these requirements, KCDC’s Procurement Division will notify the corporate level contact about the problem. Should there be recurrences; KCDC may ask the vendor to not send the employee to KCDC property. Repeated offenses may result in forfeiture of your awarded “contract.”

53. **SOLICITATION DELIVERY**

Specific instructions for solicitation delivery are on the cover page of each solicitation. It is the supplier’s responsibility to follow those instructions. KCDC has no liability for improperly delivered responses. On occasion KCDC requests various other delivery items such as electronic copies and typed responses. In such cases, suppliers must follow the instructions.

54. **SUBCONTRACTORS**

KCDC must approve subcontractors prior to them commencing work. Additionally KCDC must approve changes in subcontractors used. Subcontractors must also:

- a. Not be on HUD’s Debarment List.
- b. Carry the insurance coverages as outlined in the solicitation document.
- c. Comply with all Davis Bacon requirements that may apply to a project.

55. **TERM**

Unless KCDC expressly specifies and agrees to otherwise, KCDC normally enters into one-year contracts with four-one year options to renew for up to a total of five years.

56. **TERMINATION**

- a. KCDC may terminate an agreement and/or contract, in part or in whole, for its convenience or the failure of the supplier to fulfill contractual obligations. KCDC shall terminate by delivering to the supplier a written Notice of Termination specifying the nature, extent and effective date of the termination. Upon receipt of the notice, the supplier shall:

1. Immediately discontinue all services affected (unless the notice directs otherwise).
 2. Deliver to KCDC all information, papers, reports and other materials accumulated or generated in performing the agreement and/or contract, whether completed or in progress.
- b. If the termination is for KCDC's convenience, KCDC shall only be liable for payment for services rendered before the effective date of the termination.
- c. If the termination is due to the failure of the supplier to fulfill its obligations under the agreement and/or contract, KCDC may:
1. Require the supplier to deliver any work described in the Notice of Termination.
 2. Take over and finish the work specified by the award and/or contract. The supplier shall be liable for any additional cost incurred by KCDC.
 3. Withhold any payments to the supplier for purpose of set-off or partial payment, as the case may be, of amounts owed by KCDC to the supplier.

In the event of termination for cause, KCDC shall be liable to the supplier for reasonable costs incurred by the supplier before the effective date of the termination. KCDC's Contracting Officer shall decide any dispute.

57. **USE OF SOLICITATION FORMS**

Suppliers are to complete the forms contained in the solicitation package. Failure to complete these forms may result in the rejection of your response.

Suppliers are not to change the pricing method that is on the solicitation document unless the Procurement Division approves the change.

KCDC does not consider notes on bid envelopes (such as deduct/add dollars to the bid).

58. **UTILITIES**

- a. When work is at or in its apartments, KCDC does not normally supply utilities for suppliers because the residents pay their own utility bills. In such cases, the supplier will arrange for any necessary utilities.
- b. When work is at its office areas, vacant apartments and other non-resident locations, KCDC will normally provide utilities for suppliers as long as they are currently available at the area.
- c. The supplier must ascertain the availability of utilities prior to submitting a bid or quote.

59. **VENDOR SURVEY**

KCDC, as a part of its continuous improvement program, will survey its departments, divisions and employees about the quality of the goods and/or services provided by the successful supplier. KCDC shares the results with the supplier. If necessary, KCDC and the supplier will then jointly work on an improvement program. In extreme cases, KCDC may end contracts due to survey results.

60. **WORKPLACE VIOLENCE PREVENTION POLICY**

KCDC is committed to providing a safe, healthy and secure work environment. The presence of weapons, violence, threats of violence and other disruptive behavior in the workplace is prohibited. This policy applies to anyone on KCDC property, including but not limited to all employees, suppliers, volunteers, interns, residents, temporary employees, board members and visitors.

Threats, threatening behavior or acts of violence against employees, visitors, guests or other individuals on KCDC property will not be tolerated. Any person who makes threats, exhibits threatening behavior or engages in violent acts on KCDC property shall be removed from the premises as quickly as safety permits, and shall remain off KCDC premises pending the outcome of an investigation. Violation of this policy by non-employees may result in suspension and/or termination of any business relationship, appropriate legal action or other disciplinary response deemed appropriate. Exceptions from this policy may be granted by KCDC, at its discretion, in unusual circumstances.

Knoxville Police Department officers under contract with KCDC may be required as a condition of their work assignment to possess firearms, weapons or other dangerous devices. It is KCDC's policy that officers use these devices only in accordance with established operating procedures and all applicable state and federal laws.

Weapons include:

- Explosive devices, its component parts or an explosive weapon principally designed, made or adapted for delivering or shooting an explosive weapon.
- Firearms including machine guns, short barrel rifles, shotguns or handguns.
- Switchblade knives or any other type of knife not necessary for a work assignment.
- Brass knuckles.
- Or any other instrument for infliction of bodily injury, serious bodily injury or death which has no common lawful purpose.

On the work site includes all property owned or occupied by KCDC (including KCDC job sites) or in a KCDC vehicle.