### Monroe County Coronavirus State and Local Fiscal Recovery Funds Procurement Policy April 2022

- A. Applicability. This Procurement Policy ("Policy") shall be applicable to all expenditures, contracts, and agreements entered into that use, either in whole or in part, Coronavirus State and Local Fiscal Recovery Funds (the "ARPA Funds") received by Monroe County (the "County") and shall be implemented in accordance with 2 CFR 200.317 through 2 CFR 200.327, as applicable. Nothing herein shall be construed to supersede applicable local, state, and/or federal laws and regulations, including but not limited to New York State General Municipal Law Article 5-A. However, this Policy shall supersede the more general County procurement policies in the expenditure of ARPA Funds. In the event of a conflict between this Policy and a County procurement policy, this Policy shall govern.
- **B.** ARPA Contracts. The Coronavirus State and Local Fiscal Recovery Funds program, as part of the American Rescue Plan, permits the County to use ARPA Funds to: (1) respond to the far-reaching public health and negative economic impacts of the pandemic by supporting the health of communities and helping households, small businesses, impacted industries, nonprofits, and the public sector recover from economic impacts, and (2) invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, to support vital wastewater and storm water infrastructure, and to expand affordable access to broadband internet (together and generally herein, "ARPA Contracts"), in addition to replacing lost public sector revenue and providing premium pay for essential workers.

### C. Small Purchases

- 1. Purchases for commodities, services, and/or professional services under twentyfive dollars (\$25) or less may be made directly with petty cash, subject to the Petty Cash Guidelines established by the Monroe County Controller.
- 2. Purchases for commodities and/or services between twenty-five dollars (\$25) and one thousand dollars (\$1,000) and professional services between twenty-five dollars (\$25) up to and including the thresholds set forth in Section E may be made upon the receipt of at least one (1) written cost quotation.
- 3. Purchases for commodities and/or services over one thousand dollars (\$1,000) up to and including the thresholds set forth in Section D may be made upon the receipt of at least three (3) legitimate and competitive written quotations. Awards for commodities and non-professional services shall be made to the lowest responsive and responsible quotation.
- **D.** Public Works over \$35,000 and Purchases over \$20,000. Public works contracts over \$35,000 and all purchase contracts (including service contracts) over \$20,000 shall be subject to the sealed bid requirements under General Municipal Law § 103.

### E. Professional Service Contracts over \$20,000 and ARPA Contracts

### 1. Requirements

- i. A Request for Proposals ("RFP"), Request for Qualifications ("RFQ"), or Expression of Interest ("EOI") is required for all professional service agreements over \$20,000 and ARPA Contracts.
- ii. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the County with price and other factors considered.
  - 1. Notwithstanding the foregoing, the County may use competitive proposal procedures for qualifications-based procurement of architectural/engineering ("A/E") professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services though A/E firms that are a potential source to perform the proposed effort.
- 2. RFP/RFQ/EOI Process
  - i. RFPs, RFQs, and/or EOIs shall be publicly advertised.
  - ii. RFPs, RFQs, and/or EOIs must identify all evaluation factors and their relative importance. Examples of suitable evaluation factors include, but are not limited to:
    - 1. Compliance with the Coronavirus State and Local Fiscal Recovery Funds final rule;
    - 2. Use of strategic sourcing, shared services, and/or leverage of other community resources to foster greater economy and efficiency;
    - 3. Conformity with a community goal, pillar of success, and/or strategic pathway identified by the County;
    - 4. Utilization of minority and/or women owned businesses;
    - 5. Understanding of and approach to project;
    - 6. General technical and professional competence;
    - 7. Previous performance record; and/or
    - 8. Cost/proposed fees.
  - iii. Proposals shall be solicited from an adequate number of qualified offerors.
  - iv. Proposals must be received by the date and time specified in the solicitation. Late proposals will be rejected.
  - v. An ARPA Selection Committee and ARPA Selection Committee Chair shall be identified for each RFP, RFQ, and EOI. The same APRA Selection Committee shall review all responses to an individual RFP, RFQ, and/or EOI, but may change between different RFPs, RFQs, and/or EOIs based on availability and areas of expertise.
  - vi. The ARPA Selection Committee will convene and rate proposals. All response to publicized requests for proposals shall be considered to the maximum extent practical.

- vii. Upon identification of the selected respondent, the ARPA Selection Committee Chair, or his/her designee, will identify the selected respondent and will complete and submit Part III of the Solicitation Request / Contract Approval Form to Purchasing.
- viii. The Deputy County Executive, Chief Financial Officer, and Purchasing Manager must acknowledge the Committee's recommendation and the signed form is returned by Purchasing to the Planning Department.
  - ix. The Planning Department shall prepare a legislative referral pursuant to procedures issued by the County Executive's Office.

# F. Technical Evaluation of Proposals

- 1. The APRA Selection Committee shall rank proposals by consensus pursuant to the evaluation factors and their relative importance identified in the RFP/RFQ/EOI.
- 2. If a selection committee is not able to reach consensus in its ranking, another scoring methods may be used, such as show of hands or individual scoring with mathematical determination of the selected respondent.

## G. Responsibilities of ARPA Selection Committee Members

- 1. An ARPA Selection Committee may include non-County employees (e.g., representatives from the City of Rochester or other subject matter experts). Such non-County members shall be subject to the requirements set forth herein, but shall be non-voting members for purposes of ranking.
- 2. In addition to the requirements set forth in Chapter 45 of the Monroe County Code:
  - i. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by ARPA Funds if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
  - ii. The officers, employees, and agents of the County may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
- 3. ARPA Selection Committee Members shall:
  - i. Disclose Vendor Contact(s). If a Committee member has substantive contact with a respondent during the restricted period, it must be disclosed to the Purchasing Manager in accordance with the County's Procurement Policy.
  - ii. Prior to serving on the ARPA Selection Committee, all members thereof must affirm in writing that they have had no substantive contact with any responding firm, individual or other entity, or a known subcontractor or consultant thereto, concerning the subject matter of a procurement, for the thirty (30) days prior to the issuance of a RFP/RFQ/EOI to the present, and

that they will continue to have no substantive contact therewith until the ARPA Selection Committee has made a selection.

- iii. Discuss strengths and weaknesses of each proposal. All responses to publicized requests for proposals shall be considered to the maximum extent practical.
- iv. Determine whether short listing and/or oral interviews are necessary.
- v. Evaluate proposals pursuant to the evaluation factors and their relative importance identified in the RFP/RFQ/EOI.
- 4. The County reserves the right to select more than one respondent. Selection of more than one respondent shall be in descending order from highest to lowest score. Multiple project selections from a single RFP/RFQ/EOI shall be in descending order from highest to lowest score based on project value.
- 5. The score sheet must have an accurate listing of committee members present for scoring, including name, department, and title. Score sheets may be signed or initialed by those present for the procurement record.
- 6. The ARPA Selection Committee Chair shall submit a copy of the completed Standard Consultant Selection Rating Form and Part III of the Solicitation Request/Contract Approval Form to Purchasing for processing.

### H. Other Requirements

- 1. The County shall award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.
- 2. The County shall maintain records sufficient to detail the history of procurement. These records must include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.
- 3. A potential respondent shall not sit on an internal work group to develop/review an RFP/RFQ/EOI and submit a response. Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals shall be excluded from competing for such procurements.

### I. Restrictive Period

1. A firm, individual or other entity, or a subcontractor or consultant thereto, may not have substantive contact with a County employee or officer, but for the Purchasing Manager or his or her designee, concerning the subject matter of a public bid, RFP, RFQ, and/or EOI during a restrictive period beginning thirty (30) days prior to the issuance of said public bid, RFP, RFQ, and/or EOI and continuing until the

selection committee has made a selection or the bid has been opened and the results made public.

- 2. There will be a single point of contact in Purchasing for all RFP/RFQ/EOI releases.
- 3. Purchasing will facilitate all pre-proposal meetings.
- 4. Questions must be submitted to Purchasing in writing.
- 5. Questions will be answered in the form of an Addendum and posted on the County's website.
- 6. Thirty (30) days must pass after a substantive meeting or communication between a County employee and vendor before a public bid, RFP, RFQ, and/or EOI or bid may be issued.
- **J. Reporting**. Violations of this policy must be reported in writing to the Purchasing Manager by any County employee or officer with knowledge of the violation.

### K. Penalties

- Violations of this policy by a firm, individual or other entity, or a subcontractor or consultant thereto, may result in the exclusion of any response to a public bid, RFP, RFQ or EOI submitted on their behalf and/or debarment from responding to a County-issued procurement process for up to five (5) years. Any contract or agreement entered with a firm, individual or other entity subsequent to a violation of this policy during the procurement process is null and void.
- 2. Any County employee or officer who violates this policy will be subject to disciplinary action, up to and including, termination of employment.