

**ATTACHMENT D
PROCUREMENT PROCEDURES
AND
OTHER GRANT REQUIREMENTS**

1. Procurement Procedures

Background Information

Municipal planning grants are state funds granted to municipalities. Procedures for spending this Grant Award should be consistent with the principles of fair access for vendors of goods and services that govern the expenditure of state funds directly by state government. All subcontracts made pursuant to a municipal planning grant must: require all subcontractors to comply with the Vermont's Fair Employment Practices Law, Title 21 of the Vermont Statutes, sections 495-496; the Americans with Disabilities Act; and the record keeping requirements of this Agreement. Additionally, all relevant products must be compatible with the Vermont Geographic Information System (VGIS) and meet all VGIS standards, which are available from the Vermont Center for Geographic Information.

Procurement refers to the purchase of personal services (performed by people) or tangible goods. The grantee may use established procurement procedures which reflect applicable State and local laws and regulations, provided these procedures are at least equivalent to the standards set forth below.

I. A. For personal services up to and including \$1,000, a written contract is not required although it is recommended. A written contract in this context should address the issues required in a contract for goods or services costing more than \$1,000.

B. Form of contract for personal services over \$1,000:

1. A written contract signed by an authorized representative of (1) the Contractor and (2) the Grantee's legislative body is required that sets forth clearly: the parties, the subject matter, the scope of work, the maximum that will be paid, the products to be delivered and the duration of the contract. The contract should also contain provisions for amendment, cancellation, attachments, controlling law and number of originals of the contract. See model personal services contract at <http://accd.vermont.gov/sites/accd/files/Documents/strongcommunities/cd/mpg/SampleContract.doc>
2. The contract shall include the basis for the total cost or contract price: an itemization of all costs for materials, personal services, which include the hiring of staff, the names of any persons whose participation the Grantee considers to be crucial to the award of the contract and provisions for what to do if such persons need to be replaced, consultants, and any other purchased items which together add up to the total cost.
3. Payment provisions shall include the schedule of payment. It is useful to schedule the withholding of a percentage, such as 10%, until the Grantee is sure the work has been satisfactorily completed, for instance, until after the report has been completed and Grantee has reviewed it, or until Grantee has found the product to work as it was intended.
4. It is good practice to incorporate by reference any request for proposal (RFP) and proposal, or request for qualifications (RFQ) and qualifications, and include a copy of both as an attachment to the contract to avoid confusion arising out of different language on the same subject appearing in the RFP/RFQ and the contract.

II. Methods of Procurement:

1. Up to and including \$10,000 – the Grantee is required to obtain price or rate quotations from a reasonable number of sources, but no less than two, and maintain a record of the same in its files. The only exception to this requirement is if the Grantee is using the services of its Regional Planning Commission (RPC), in which case paragraph IV, below, applies.

2. More than \$10,000 – The Grantee is required to maintain records in its files to document how the procurement decision was made. The following methods apply in order of preference of use:

a. Competitive Selection: Proposals and or qualifications should be requested from a number of sources and the RFP or RFQ should be broadly publicized. Depending on the subject matter of the contract, notice should be published in local newspapers, newspapers of general circulation, relevant websites, and/or trade or professional publications, as the circumstances warrant.

1. Proposals/qualifications shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement.

2. RFP/RFQ shall identify the scope of services, the procedural and substantive requirements of the bidding process, the key elements of the contract to be signed by the vendor winning the bid, and all significant evaluation criteria, including their relative importance in the selection process.

3. If the Grantee utilized the services of a consultant to prepare its grant application, but did not go through a competitive process to select that consultant, the Town must make the application available to prospective bidders as part of the RFP/RFQ process to ensure a fair and open competition among vendors.

4. The Grantee shall prepare and document the method it uses to objectively evaluate the proposals and to make its final selection. Such documentation shall be maintained in Grantee's official records.

5. The award shall be given to the bidder whose proposal is most responsive to the RFP/RFQ evaluation criteria taking into consideration price and other relevant factors.

b. Noncompetitive Selection: This method of procurement may be used when competitive selection is not possible for any of the following reasons:

1. The item or service is available only from a single source.

2. Public emergency or urgent need for the service or item does not allow time for a competitive selection process.

3. After solicitation of a number of sources, competition is determined inadequate.

When a non-competitive selection method is used, the Grantee must maintain in its files a thorough explanation for the reason for determining that such a selection method is appropriate under the circumstances.

In no event shall any contract greater than \$10,000 be sole sourced without prior

written approval from the Department.

c. Other Methods of Selection: Additional innovative procurement methods may be used by Grantee with the prior written approval of the Department.

3. Negotiations with Potential Contractors: The contractor may be selected based on the response to the RFP/RFQ, and final terms of the contract negotiated after the contractor has been selected.

IV. Exceptions to Procurement Requirements:

1. Use of the regional planning commission (RPC): If the Grantee requires the services of its regional planning commission in carrying out the provisions of this Agreement, procurement procedures need not be followed for the work being done by the RPC, subject to the following:

a. The RPC must document and justify its charges and they must be in accord with local standards for similar work; and

b. Any contracts awarded by the RPC to other contractors or suppliers in connection with performance of this Agreement must be made in accordance with these procurement standards and must incorporate the provisions contained in Section VI.

c. The RPC contract cannot be for more than \$10,000. Larger contracts must use the normal procurement methods described above.

2. If the Grantee engaged in a competitive procurement process as part of developing its Grant Application, and selected a contractor at that time, there is no requirement to re-open the selection process, provided that the scope of work remains substantially similar to what was in the Contractor's proposal.

3. Use of same architect, engineer, or other professional at different stages of the same project. If the Grantee is satisfied with the qualifications and performance of the architect, engineer or other professional who was awarded and performed some work in connection with the grant, it may offer that firm or individual additional work under the grant agreement without going through the competitive selection process.

V. Waiver:

Upon prior request by the Grantee, the Department may waive any provision of the procurement procedures not required by law whenever it is determined that undue hardship will result from applying the requirement and that the best interests of the State are served by such waiver.

VI. Standard State Requirement of Bidders:

Grantees must ensure the following requirements are met by those awarded a contract and are explicitly included in any such contract:

1. The Contractor will maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to costs incurred under this Agreement and make them available at reasonable times to the Grantee and the State during the period of this contract and for three years thereafter for inspection by any authorized representatives of the State. The official records, however, will be maintained by the Grantee. If any litigation claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved, including any period for

filing an appeal. The Grantee and the State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this contract.

2. The Contractor certifies under the pains and penalties of perjury that he or she is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont as of the date the Contractor signs this contract.
3. The Contractor shall not assign or subcontract the performance of this agreement or any portion thereof to any other contractor without the prior written approval of the State. The Contractor also agrees to include in all subcontract agreements a tax certification in form substantially identical to paragraph 2 above.
4. The Contractor agrees to comply with the requirements of Title 21 of the Vermont Statutes, sections 495-496, relating to fair employment practices, to the extent applicable. Contractor shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the contractor. Contractor further agrees to include this provision in all subcontracts.
5. The Contractor states that as of the date the contract is signed, he/she:
 - a. is not under any obligation to pay child support; or
 - b. is under such an obligation and is in good standing with respect to that obligation; or
 - c. as agreed to a payment plan with the Vermont Office of Child Support and is in full compliance with that plan. Contractor makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Contractor is a resident of Vermont, Contractor makes this statement with regard to support owed to any and all children residing in any other state, territory, or possession of the United States.

VII. Conflict of Interest:

Conflict of interest is defined as “a significant pecuniary interest of an elected officer of the municipality, or of an appointed official whose work is related to the subject of this grant, or a member of such a person’s immediate family or household, or of a business associate of such a person, in the selection of a vendor of goods and/or services under this grant.”

The municipality must avoid actual conflicts of interest in this grant program. In addition, it should be sensitive to the appearance, as well as the reality of, conflict of interest with respect to its procurement of both goods and services using these grant funds, and consult the Department when questions arise.

3. Press and Public Communication

If the Grantee, Subgrantee, or contractor issues any press release, public communication or product pertaining to the Project assisted by this Agreement, it shall include a statement that the project is funded by a Municipal Planning Grant awarded by the Department of Housing and Community Development.

4. GIS Work

For any projects including a GIS component:

1. The Grantee shall ensure any contracts, subgrant agreements or subcontracts that are issued through this grant to develop GIS data shall include the GIS Data Information Form as a final product to the work performed. Grantee shall also submit, with the final report, copies of material documents, and copies of digital data produced with the Grant Award or any portion thereof. Digital data includes spatial and tabular data attributes, documentation files, and plot files, and must meet applicable standards as to physical media, data format, and documentation of all products using the VGIS metadata standard. (It is not necessary to submit subsets of data layers that are already listed in the VGIS Data Catalog).
2. All data and materials created or collected under this Agreement – including all digital data – are public records. The parties may utilize the information for their own purposes, but shall not copyright these materials.
3. Digital Spatial Data will be submitted on a single CD or DVD in Vermont State Plane Meters Coordinates, NAD 83 with its accompanied GIS Data Information Form. Any of the following file formats is acceptable:
 - a. .shp (Shapefile – which also consist of files with other extensions such as .dbf and .shx)
 - b. .dwg (CAD file)
 - c. .dxf (CAD file)

[Technical assistance and information on these guidelines and procedures are available from the Vermont Center for Geographic Information, Inc. (<http://www.vcgi.org/standards> or 802-882-3006): Relevant documents include: Municipal Property Mapping Guideline; Contracting with GIS Consultants; Vermont GPS Guidelines.]

4. Termination

In the event of termination prior to disbursement of the entire grant amount, the parties shall agree upon the termination conditions and, in the case of partial terminations, the work that will be deleted from the Work Plan. The Grantee shall not incur new obligations for the terminated portion after the date of termination, and shall cancel as many outstanding obligations as possible. The Grantee shall be allowed credit for non-cancelable obligations, properly incurred prior to termination, to the extent funds are available and at the discretion of the Department.

If, through any cause, the Grantee shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Agreement, the Department shall thereupon have the right to terminate this Agreement by giving written notice to the Grantee of such termination and specifying the date thereof.

[END OF ATTACHMENT D]