

Title 13. Libraries, Archives, and Cultural Resources
Chapter III. Arkansas Historic Preservation Program, Division of Arkansas Heritage, Department of Parks, Heritage, and Tourism
Subchapter A. Generally
Part 11. County Courthouse Restoration Grant Guidelines

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"June 11, 2001

County Courthouse Restoration Grants

Arkansas Historic Preservation Program Department of Arkansas Heritage

This booklet is part of the series "Grant Programs of the Arkansas Historic Preservation Program."

The other titles in the series are:

Certified Local Government Grants

Historic Preservation Restoration Grants

Preservation Education Grants

Model Business Grants

Main Street Arkansas Downtown Revitalization Grants

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Subpart 1. General Information

13 CAR § 11-101. Purpose.

(a) The Arkansas Historic Preservation Program recognizes a lack of financial assistance as one of the largest obstacles to the preservation of historic resources in Arkansas.

(b) The purpose of the County Courthouse Restoration Grant program is to encourage and promote the preservation and continued use of Arkansas's historic courthouses by providing financial assistance for restoration, selected maintenance, and accessibility projects.

(c) The County Courthouse Restoration Grant is an annual grant that has been in existence since 1988.

(d) It is funded primarily by an annual grant to the Arkansas Historic Preservation Program by the Arkansas Natural and Cultural Resources Council using real estate transfer tax funds.

(e) Fifty-four (54) of the sixty-four (64) Arkansas counties with eligible courthouses have received grants from the Arkansas Historic Preservation Program.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-102. Funding source.

(a) Grants awarded by the Arkansas Historic Preservation Program are funded by:

- (1) General revenues of the State of Arkansas;
- (2) Special revenues under the real estate transfer tax passed as Acts 1987, Nos. 729 and 818;
- (3) The Arkansas conservation tax established by Arkansas Constitution, Amendment 75; or

(4) The National Park Service.

(b) All grant recipients must follow the policies and procedures of the program, as well as rules and regulations governing the expenditure of all state and federal funds.

(c) The rules set forth in this part must be strictly adhered to by both:

- (1) The program; and
- (2) All grant recipients.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-103. State rules and federal regulations.

All grant recipients must agree to abide by and comply with applicable state and federal rules, regulations, and policies, including:

- (1) The Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq.;
- (2) Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d);
- (3) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794;
- (4) Title IX of the Education Amendment of 1972, 20 U.S.C. § 1681 et seq.;
- (5) The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; and
- (6) All other applicable state and federal:
 - (A) Laws;
 - (B) Rules and regulations; and
 - (C) Executive orders.

Authority. Arkansas Code § 13-7-104.

Subpart 2. Grants and Eligible Properties

13 CAR § 11-201. Eligibility.

(a) Eligible county courthouses include those:

- (1) Listed on the National Register of Historic Places, either individually or as a contributing resource in a historic district; and
- (2) That are not listed, but are eligible for listing on the National Register of Historic Places, as determined by the Arkansas Historic Preservation Program.

(b) A county receiving grant funds for a non-National Register of Historic Places courthouse must submit a completed National Register of Historic Places nomination with its final invoice.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-202. Authorized uses of County Courthouse Restoration Grants.

(a)(1) County Courthouse Restoration Grants may be used to preserve, restore, rehabilitate, repair, or stabilize county courthouses listed on the National Register of Historic Places.

(2) Highest priority is assigned to projects mitigating a threat to a structure's integrity and survival.

(3) Grants cannot be used to reimburse expenses for work done outside the grant period specified in the grant contract.

(4) Additionally, it should be stressed that these grants are not intended for general maintenance projects.

(b) Grants may be used for, but are not limited to, the following projects:

(1) Repair and/or replacement of roofing materials;

(2) Repair and/or replication of original windows;

(3) Repair and/or replication of original exterior siding material;

(4) Removal of artificial siding (vinyl, metal, asbestos plate);

(5) Repair of foundation and/or masonry problems;

(6) Repair or replication of significant exterior architectural elements, such as missing or severely dilapidated/missing:

(A) Columns;

(B) Turrets;

(C) Cupolas;

(D) Domes; or

(E) Clock towers;

- (7) Exterior painting (if existing paint has failed);
 - (8) Exterior cleaning;
 - (9) Repair of integral guttering systems;
 - (10) Repair of structural elements, such as:
 - (A) Floor joists;
 - (B) Ceiling joists;
 - (C) Rafters;
 - (D) Foundations;
 - (E) Rotted floors;
 - (F) Load-bearing walls;
 - (G) Trusses;
 - (H) Metal columns; or
 - (I) Beams;
 - (11) Removal of asbestos or lead paint;
 - (12) Alterations to meet requirements of the federal Americans with Disabilities Act of 1990, 20 U.S.C. § 12101 et seq.;
 - (13) Repair and/or installation of seismic reinforcement in a historic structure;
- and
- (14)(A) Repair, restoration, or replication of missing or deteriorated original interior features considered significant to the National Register of Historic Places eligibility of the property.
 - (B) The features must be documented through:
 - (i) Historic photographs;
 - (ii) Original architectural drawings/specification; or
 - (iii) Architectural investigation.
 - (C) Projects may include but are not limited to the following items:
 - (i) Decorative plaster work;
 - (ii) Murals;
 - (iii) Stencils;
 - (iv) Faux finishes;

- (v) Decorative painting;
- (vi) Carved/decorative moldings and trim;
- (vii) Wood paneling;
- (viii) Fireplace mantels;
- (ix) Staircases;
- (x) Stained-glass windows/skylights;
- (xi) Parquet flooring; and
- (xii) The repair of mechanical, plumbing, and electrical systems if the existing systems jeopardize the historic property.

Authority. Arkansas Code § 13-7-104.

Subpart 3. Preparing the Grant Application

13 CAR § 11-301. Planning the project.

(a)(1) An applicant for any County Courthouse Restoration Grant must first determine the scope of the project to be funded.

(2) Historic preservation is an expensive endeavor, and most projects require careful prioritization.

(b) Tips on developing a good project include:

(1)(A) Ask an expert.

(B) An architect can be invaluable in helping you to determine your needs and planning your project.

(C) In addition to giving an estimate of the project cost, an architect can also provide information on structural priorities and efficient scheduling.

(D) Also, feel free to contact the Arkansas Historic Preservation Program if you have questions regarding project funding priorities or guidelines for rehabilitation;

(2)(A) Phase it out.

(B) Funds for Courthouse Restoration Grants are often limited, and few applicants receive the total amount requested in their application.

(C) By dividing the project into prioritized phases, you provide a way for funding to be used effectively even if you do not get everything you requested.

(D) You can apply for more funding in the next grant cycle; and

(3)(A) Know your limitations.

(B) Or maybe we should say, "Don't bite off more than you can chew."

(C) Administering a grant project requires staff time and attention to detail.

(D) Do not commit yourself or your county to a project if you are unable to invest the necessary resources to complete it.

(E) By the same token, do not commit the county to a cash match or other investment of scarce resources unless you can be sure it will be in place when you sign the grant contract.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-302. Application packet format.

The County Courthouse Restoration Grant application packet should be organized using the following format, with sections numbered accordingly:

(1)(A) Application.

(B) A two-page document, mailed to the applicant with this part, containing basic information on applicant and the proposed project.

(C) Includes space for a brief, two-to-three-sentence summary of the project;

(2)(A) Detailed project description.

(B) Drawings and narrative explaining:

(i) How the project is to be accomplished;

(ii) What materials will be used; and

(iii) Timeline for project.

(C) Narrative should include specific explanation of what project components will be funded by the grant;

(3)(A) Color photographs of property.

(B) Color prints of north, south, east, and west elevations of the building, along with close-up color prints of any work that is to be funded with the grant.

(C) Failure to send color prints will result in automatic disqualification for the application.

(D) Scanned or digital images, black and white prints, or slides will not be accepted;

(4)(A) Detailed project budget.

(B) A line-item project budget, including:

(i) Material costs;

(ii) Labor; and

(iii) Architect/consultant fees.

(C) A detailed estimate written by the architect is acceptable.

(D) Budget should also specify which items are to be grant-funded;

(5)(A) Letter of agreement for easement.

(B) If a county applies for funds to restore a courthouse on which the Arkansas Historic Preservation Program does not hold an easement, the application must include a letter from the county judge stating that he or she:

(i) Has read the section of this part entitled "Conservation Easements"; and

(ii) Understands that no grant funds will be released until a deed of conservation easement has been conveyed to the program and filed with the circuit or county clerk; and

(6)(A) Letters of commitment and support.

(B) Letters from project stakeholders (friends groups, other local government officials, donors, or volunteers) demonstrating community and/or financial support for the project.

Authority. Arkansas Code § 13-7-104.

Subpart 4. Arkansas Historic Preservation Program Grant Review Process

13 CAR § 11-401. Staff review.

- (a) Grants are awarded annually.
- (b) The technical staff of the Arkansas Historic Preservation Program reviews applications for completeness and project eligibility.
- (c)(1) The staff scores technical aspects of a project on a scale of 1 to 200 using a standard rating sheet.
 - (2) See Exhibit 1.
- (d) The staff forwards the completed rating sheet and any additional recommendations to the Historic Preservation Grants Selection Committee, consisting of the following members:
 - (1) Director of the Arkansas Historic Preservation Program;
 - (2) Chair of the State Review Committee for Historic Preservation or another State Review Committee for Historic Preservation member designated by the chair; and
 - (3) A constituent-at-large designated by the State Historic Preservation Officer.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-402. Selection criteria.

The Historic Preservation Grants Selection Committee uses the following primary criteria to evaluate County Courthouse Restoration Grant applications:

- (1) Staff recommendations and technical scoring;
- (2) Threats to property or possibility of imminent loss;
- (3) Historic significance of property;
- (4) Impact of project on community preservation;
- (5) Conformity to community planning standards;
- (6) Evidence that the objectives of the project can be achieved within the framework set forth by the applicant;

(7) Qualifications and experience of the applicant and contractors participating in the project;

(8) Interest of the applicant in undertaking the project and acquired benefits to the applicant and to the Arkansas Historic Preservation Program;

(9) Appropriateness of the budget and evidenced support for matching funds;

(10) Timeliness, need, and significance of the project;

(11) Number of other grant recipients in geographic region; and

(12)(A) Completeness of application.

(B) Incomplete applications will not be considered.

Authority. Arkansas Code § 13-7-104.

Subpart 5. Administering the Grant

13 CAR § 11-501. Notification.

A notification letter from the Governor will be sent to all counties receiving County Courthouse Restoration Grant funding.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-502. Required workshop.

(a) Grantees must attend a grant administration workshop in Little Rock at a time and location specified by the Arkansas Historic Preservation Program.

(b) Attendance is mandatory for the grant recipient or the project manager.

(c) Failure to attend the grant administration workshop will result in cancellation of the grant award.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-503. Grant contract.

(a) Each grantee must sign a contract with the Arkansas Historic Preservation Program and comply with all of its terms.

(b) The contract is included in the grant award packet.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-504. Conservation easement.

(a)(1) Each recipient of a County Courthouse Restoration Grant must convey a deed of conservation easement to the Arkansas Historic Preservation Program prior to the receipt of any grant funds.

(2) An easement is a voluntary transfer of some of the rights inherent in property ownership.

(3) The historic preservation easement is a right or limitation, set forth in a legal instrument or deed, that allows the donor to retain ownership and possession of a historic landmark while granting a government agency or qualified nonprofit organization the authority to protect the historic, cultural, architectural, or archeological characteristics of the property.

(b)(1) The agreement may be called a "preservation", "conservation", "scenic", "interior", "open space", "exterior", or "facade" easement.

(2) The name has less to do with the way the agreement works than with the kind of resource it protects.

(c)(1) In each instance, the easement, as it is legally termed, must contain binding and enforceable covenants that run with the land and structure.

(2) These covenants obligate the owner to refrain from actions that are incompatible with the preservation of and/or the historic integrity of the property.

(d) The deed of conservation easement document must be executed in accordance with the Arkansas Historic Preservation Program's conservation easement program procedures.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-505. Project technical review.

(a) All grant-supported projects must be in accordance with the United States Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.

(b) A copy of these standards is included in the award packet.

(c) Before any grant-assisted work is done, the Arkansas Historic Preservation Program must review the plans and specifications of the project to ensure compliance with these standards.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-506. Project time limits.

(a) Unless otherwise authorized, all projects must be completed within the time period specified in the grant contract.

(b)(1) A grantee that is unable to meet a project deadline is required to submit a written request for an extension of time at least fourteen (14) days prior to the deadline.

(2) This request will be reviewed by the Arkansas Historic Preservation Program, and the grantee will be notified as soon as possible of the action taken.

(3) A request for an extension does not guarantee it will be granted.

(c) If the grantee does not meet the established deadline and/or does not request and receive an extension:

(1) The grant will be terminated on the contract end date; and

(2) Funds will be reallocated.

(d)(1) A grantee who encounters serious financial problems after accepting a grant, or who is for some other reason unable to proceed with the project, should immediately inform the program staff.

(2) The funds will then be reassigned or returned to the program according to the procedures specified in this part.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-507. Project review/approval.

(a)(1) When preparation for the project is complete, the grantee must forward project plans and specifications to the Arkansas Historic Preservation Program staff before work starts.

(2) Failure to do so will result in denial of grant funds.

(3) If clarification or additional information is required, the program staff will contact the grantee.

(4) Program staff will conduct a final review of all project plans and required documents.

(5)(A) When all is in order, the Director of the Arkansas Historic Preservation Program will provide written authorization for work to begin.

(B) Work may not begin until the grantee receives this project initiation letter.

(b)(1) Program staff members may inspect the project before, during, and after the completion of the work.

(2) Once work has begun, the site visits may be made without notification to the grantee.

(3) A program photographer may photograph the project.

(c)(1) The grantee and/or the project architect are encouraged to contact the program with questions at any time before or during work on the project.

(2) No changes in the project can be made after the program gives final approval to the plans unless such changes are submitted in writing to the program and approved in writing by the program beforehand.

(3) If changes are not approved, final work may not be approved and full funding for the project could be denied.

(4) In the event of unforeseen problems, the program staff will work to find a solution satisfactory to both the grantee and the program.

Authority. Arkansas Code § 13-7-104.

13 CAR § 13-508. Allowable expenses.

(a) To be considered allowable, all costs must appear in the approved work-cost breakdown.

(b) Some of the most frequently used allowable costs include:

(1) Historical, architectural, or archeological research necessary to implement and carry out project work;

(2) Architectural, engineering, or contractor fees necessary to implement and carry out project work;

(3) Expendable supplies and materials;

(4) Rental or lease of project equipment;

(5) Exterior restoration; and

(6) Structural repairs.

Authority. Arkansas Code § 13-7-104.

13 CAR § 13-509. Nonallowable expenses.

The following costs are not reimbursed by County Courthouse Restoration Grants:

(1) Any item not listed in the approved work-cost breakdown;

(2) Deficits;

(3) Contingency funds;

(4) Contributions or donations to other organizations or individuals;

(5) Capital expenditures, defined as tangible property:

(A) Costing one hundred dollars (\$100) or more; and

(B) Having a life span of two (2) or more years;

- etc.;
- (6) Entertainment expenses, including refreshments, flowers, reception costs,
 - (7) Interest and other financial costs;
 - (8) Lobbying expenses;
 - (9)(A) New construction.
 - (B) Some exceptions apply;
 - (10)(A) Interpretive expenses.
 - (B) Some exceptions apply;
 - (11)(A) New pavement of:
 - (i) Parking lots;
 - (ii) Roads; or
 - (iii) Walkways.
 - (B) Some exceptions apply;
 - (12) Furnishings, draperies, or carpeting; and
 - (13) Work done prior to grant award.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-510. Grant payments.

- (a) Since grants are based on anticipated federal funds or state revenues and not on existing funds, grant amounts could be reduced at any time during the grant period.
- (b)(1) The schedule of grant payments will depend upon the nature of the project.
 - (2) Grant payments will be made directly to the grantee.
 - (3) No payment will be made to the grantee unless payment requests are accompanied by progress or final reports as applicable.
- (c) The grantee should use the following procedures:
 - (1) No payment shall be made under this grant agreement until recipient has made a cash match expenditure at least equal to the payment requested;
 - (2) One (1) of the following payment options can be used:

- (A) Partial reimbursement payments upon completion of portions of the project (no more than four (4) requests during grant period); or
- (B) One (1) full payment upon completion of the total project;
- (3) Requests for partial reimbursement payments must include:
 - (A) Arkansas Historic Preservation Program progress report/invoice form;
- and
 - (B) Vendor invoice or invoices; and
- (4)(A) Final payment will be processed upon approval of completed work.
 - (B) Request for final payment must include:
 - (i) Program final report/invoice form;
 - (ii) Vendor invoice or invoices; and
 - (iii) Color photographs of completed project.
- (d)(1) A blank program invoice form, progress report form, and final project report form are included in the grant award packet.
- (2) Please make copies as needed.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-511. Financial records.

- (a) All finance records shall be made available for audit.
- (b) Records should be kept on file by the grantee for at least three (3) years after completion of project.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-512. Reporting.

- (a) Grantees are required to submit reports during the grant period according to the grant agreement.
- (b) Progress reports are required at least quarterly and must accompany any partial payment request.

(c)(1) A final project report is required no later than thirty (30) days after completion of the project.

(2) This report must include certification/documentation of cash match and total project costs.

(3) Full or final payment requests must be accompanied by the final project report.

(d) A county receiving grant funds for a non-National Register of Historic Places courthouse must submit a completed National Register of Historic Places nomination with its final invoice.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-513. Reassignment of funds.

(a)(1) Occasionally during the course of the annual grant cycle the Arkansas Historic Preservation Program identifies additional funds available for County Courthouse Restoration Grants.

(2) These funds usually result from a grantee's decision to decline a grant award.

(b)(1) The Historic Preservation Grant Selection Committee will meet to determine the reassignment of any unused grant funds previously awarded.

(2) The funds may be:

(A) Awarded to another qualified applicant with a current grant proposal on file; or

(B) Applied to an emergency grant in a case where a historic courthouse is in imminent danger due to storm damage or other unforeseen disaster.

(c) The committee will use the same criteria to reassign these midterm funds that are used to award the initial grants.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-514. Executive Order 98-04.

(a) All work performed with Arkansas Historic Preservation Program grant funds must comply with the terms of Executive Order 98-04.

(b) See Exhibit 2.

Authority. Arkansas Code § 13-7-104.

Subpart 6. Project Contracting Procedures

13 CAR § 11-601. Selection of an architect.

(a)(1) Recipients of County Courthouse Restoration Grants are required to use the services of an architect licensed by the State of Arkansas.

(2) The architect will:

(A) Prepare plans, specifications, a work-cost breakdown, and other required contract documents for submission to the Arkansas Historic Preservation Program; and

(B) Supervise the project.

(3) This requirement may be waived by the program under certain circumstances.

(b) Procedures for selection of an architect are contained in Acts 1989, No. 616, and should be reviewed.

(c) The major provisions of the selection process are stated here:

(1) Competitive bidding for procurement of architectural services is prohibited;

(2) Contracts for architectural services shall be negotiated on the basis of demonstrated competence and qualifications;

(3) Select three (3) qualified firms based on such criteria as:

(A) Specialized experience and technical competence;

(B) Ability to work within required time limitations;

(C) Past record; and

(D) Proximity to and familiarity with the project; and

(4)(A) Negotiate a satisfactory contract with the most qualified firm.

(B) See Acts 1989, No. 616, § 5, for more details on the negotiating process.

(d) The architect selected by the grantee is encouraged to meet with the program staff to discuss the project in detail.

Authority. Arkansas Code § 13-7-104.

13 CAR § 11-602. Selection of a contractor.

(a) Procedures for selecting a contractor and requirements for contractors are contained in Acts 1949, No. 159, as amended, and should be reviewed.

(b) The major provisions of Acts 1949, No. 159, are:

(1) Contractor license requirements.

(A)(i) Contractors must be licensed by the Contractors Licensing Board on projects of ten thousand dollars (\$10,000) or more.

(ii) Contractors shall indicate their current license number on their bid forms.

(B) On projects of less than ten thousand dollars (\$10,000), licensed contractors are not required, although the Arkansas Historic Preservation Program highly recommends licensed contractors for all projects.

(C) On projects of fifty thousand dollars (\$50,000) or more, the general contractor must list any roofing, plumbing, electrical, and HVAC subcontractors, and these subcontractors must be licensed by the Contractors Licensing Board; and

(2) Contractor insurance and bonding requirements.

(A) All contractors must carry construction liability and workers' compensation insurance regardless of the cost of the project.

(B) On projects of ten thousand dollars (\$10,000) to nineteen thousand nine hundred ninety-nine dollars (\$19,999), contractors must furnish a five percent (5%) bid bond.

(C) On projects of twenty thousand dollars (\$20,000) or more, contractors must furnish a five percent (5%) bid bond and a one hundred percent (100%) performance bond.

(D)(i) Bonds shall be written in favor of the grantee.

(ii) After approval by the architect, the contractor shall file the bond with the circuit clerk and recorder of the county where the work is to be performed.

(iii) Contractor shall obtain from the circuit clerk certificates as evidence that the bond has been approved and filed with the clerk and said certificates shall be filed with the architect.

(iv) The contractor shall file the premium for the required bond.

(v) The contractor must obtain the bond before the contract between the owner and the contractor can be put into effect.

(E) Insurance and bonding agents must be licensed and authorized to do business in Arkansas.

Authority. Arkansas Code § 13-7-104.

Codification Notes. "HVAC" means heating, ventilation, and air conditioning.

13 CAR § 11-603. Bid procedures.

(a)(1) Most grantees funded by this grant program must use competitive bidding to purchase goods, services, materials, and labor.

(2) Competitive sealed bidding is required for the purchase of any construction-related goods and services of ten thousand dollars and one cent (\$10,000.01) or more.

(3) All procurement of construction-related products and services from one thousand dollars and one cent (\$1,000.01) to ten thousand dollars and one cent (\$10,000.01) shall be done by soliciting competitive quote bids by telephone or in writing from at least three (3) qualified vendors.

(b) **Project specifications.** Project specifications must contain the following statement:

"The Contractor is cautioned that this project involves largely RESTORATION WORK and maintaining the building in its present form is of utmost importance. The contractor shall use construction procedures calculated to protect the building. Any damage shall be repaired or replaced to present condition or better at no cost to the owner. This project involves state funds and carries the resultant obligations and restrictions."

(c) **Invitation to bid.**

(1)(A) For projects costing more than ten thousand dollars (\$10,000), the grantee must seek bids by placing an advertisement once each week for at least two (2) consecutive weeks in a publication that has general circulation in the county where the work is to be performed.

(B) Bid date must be at least one (1) week following last advertisement.

(C) The grantee may also use additional advertising sources.

(2)(A) If a bid bond is required, the amount may be stated as a percentage.

(B) If the contract does not require a performance bond, the bid bond will be held until final acceptance and completion of the contract by payment in full.

(3)(A) The advertisement shall state that the advertiser reserves the right to waive any formalities or reject any or all bids, as well as any other pertinent facts or information that may be necessary.

(B) The advertisement shall:

(i) Include a general description of the goods or services to be procured;

(ii) State where bid documents may be obtained;

(iii) State the date, time, and place of bid opening; and

(iv) Inform bidders that:

(a) State funds are being used; and

(b) Relevant rules, restrictions, and applicable laws apply.

(4) If, having advertised for bids, no bids are received by the date of the bid closing, the grantee must advertise for the goods and/or services to be procured a second time, with a second bid closing date established in accordance with this part.

(5)(A) Bids shall be opened at the time and place designated in the public notices and the invitation for bid.

(B) When practical, the names of the bidders and the amounts of their bids may be read aloud.

(C) Except where it may be deemed impractical due to the nature or complexity of any invitation for bids, an abstract of bids that contains the amount of each bid and the name of the bidder shall be prepared for each invitation for bids.

(D) An abstract of bids shall be:

(i) Retained in the bid file; and

(ii) Available for public inspection.

(d) Competitive negotiation.

(1) Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising.

(2) In competitive negotiation:

(A) Proposals are requested from a number of sources and the request for proposals is publicized;

(B) Negotiations are normally conducted with more than one (1) of the sources submitting offers; and

(C) Either a fixed-price or cost-reimbursable type contract is awarded, as appropriate.

(3) If competitive negotiation is used for procurement under a grant, the following requirements shall apply:

(A)(i) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirement of the procurement.

(ii) The request for proposals shall be advertised a minimum of five (5) days statewide, and reasonable requests by other sources to compete shall be honored to the maximum extent practical.

(iii) The request for proposals shall identify all significant evaluation factors.

(iv) This identification must include the:

(a) Price or cost, where required; and

(b) Relative importance attached to price or cost;

(B) The grantee shall provide mechanisms for:

(i) Technical evaluation of the proposals received;

(ii) Determination of responsible offers for the purpose of written or oral discussions; and

(iii) Selection for contract award;

(C)(i) Award may be made to the responsible offering party whose proposal will be most advantageous to the procuring party, price and other factors considered.

(ii) Unsuccessful offers should be notified promptly; and

(D) Grantees may utilize competitive negotiation procedures for procurement of architectural, engineering, archeological, and other professional services, whereby competitor's qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

(e) Noncompetitive negotiation.

(1) Noncompetitive negotiation may be used when the award of a contract is not feasible under competitive bidding (formal advertising) or competitive negotiation procedures.

(2) Noncompetitive negotiation is procurement by soliciting a proposal from only one (1) source or when, after soliciting a number of sources, it becomes apparent the competition is not adequate.

(3) Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

(A) The item is available only from a single source;

(B) Public exigency or emergency when the urgency for the requirement will not permit a delay incident to competitive solicitation; and

(C) After solicitation of a number of sources, competition is determined inadequate.

(4) Single-source contracts must be approved by the Arkansas Historic Preservation Program.

(f) **Bid documentation.** The following bid documentation is required, and a copy must be provided to the program:

(1) Dated copies of all required advertisements;

(2) Dated copies of all sealed bids received;

(3) Names and addresses of all vendors contacted for quote bids;

(4) Quotes from all bids;

(5) Documentation of negotiations for negotiated contracts; and

(6) Justification for why the lowest bid was not accepted, if such was the case.

(g) **Bid acceptance and award.**

(1) An award may be made to the lowest aggregate bidder for all items, group of items, or an individual item basis, whichever is deemed to be in the best interest of the project.

(2) The right to reject any and all bids and to waive technicalities and minor irregularities in bids should be allowed.

(3)(A) After a reasonable evaluation period, the contract shall be awarded to the responsive and responsible bidder who submitted the lowest bid that meets the requirements and criteria set forth in the invitation for bids.

(B) If after evaluation of the bids, including consideration of any clarifying or explanatory information submitted by the bidders, it is determined that no satisfactory bid has been received, all bids may be rejected.

(C) If all bids are rejected, the grantee must readvertise for the goods and/or services to be provided in accordance with this part.

Authority. Arkansas Code § 13-7-104.

Appendix A. Historic Preservation Grant Application Rating Sheet

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/40/13CARpt.11Exhibit1.pdf>