

NASSAU COUNTY LOCAL ECONOMIC ASSISTANCE CORPORATION

Statement of Procurement Policy and Procedures

This Statement of Procurement Policy and Procedures is adopted pursuant to Section 2824 of the Public Authorities Law

Scope: In accordance with Section 2824 of the Public Authorities Law, the Nassau County Local Economic Assistance Corporation (the "Corporation") is required to adopt procurement policies with respect to the procurement of goods and services paid for by the Corporation for its own use and account. Procurements for the benefit of a third party and for which payment is made from funds provided by such third party or any other person or entity other than the Corporation, shall not be subject to the requirements of this Statement of Procurement Policy and Procedures (this "Policy").

Although the Corporation is not obligated to require competitive bidding on its contracts, the Corporation finds that its objectives are advanced by requiring public bidding in certain instances.

Purpose: The primary objectives of this Policy are to assure the prudent and economical use of Corporation moneys, to facilitate the acquisition by the Corporation of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

Procurement Process Oversight: The Finance Committee of the Corporation shall oversee any procurement process undertaken by the Chief Executive Officer on behalf of the Corporation. Unless otherwise determined by the board of directors of the Corporation, the Chief Executive Officer shall be the Contracting Officer of the Corporation and any reference herein to the Chief Executive Officer shall also be deemed to mean the Contracting Officer.

Procedures: The Corporation shall, unless the board of directors of the Corporation adopts a resolution providing otherwise, adhere to the following procedures:

I. Pre-Procurement Determination

Prior to the commencement of any procurement, the Chief Executive Officer shall prepare a written statement setting forth the basis for (a) any determination that a competitive process is not required for such procurement, or (2) any determination that such procurement is not subject to one (1) or more other requirements of this Policy.

The Chief Executive Officer shall advise the Finance Committee of the initiation of any procurement process by the Chief Executive Officer on behalf of the Corporation and his or her intended method of procuring the required goods or services. The Chief Executive Officer shall keep the Finance Committee advised as to the status of each procurement process.

II. Competitive Procurement

- A. Rule: Except as otherwise set forth in this Policy, a competitive process is required for the procurement of the following contracts:
- (i) a “public work contract” involving an expenditure of more than \$20,000. A “public work contract” means a contract between the Corporation and a contractor pursuant to which the contractor provides services (including construction services) or labor to the Corporation for the Corporation’s own use or account.
 - (ii) a “purchase contract” involving an expenditure of more than \$10,000. A “purchase contract” means a contract between the Corporation and a contractor pursuant to which the Corporation acquires commodities, materials, supplies or equipment from a contractor.
- B. Competitive Process: The competitive process to be utilized shall, unless the directors of the Corporation adopt a resolution providing otherwise, be overseen by the Chief Executive Officer and comply with the following:
- (i) All solicitations and requests for proposals should be in writing and should incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description should not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, should set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors should be clearly stated and should identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
 - (ii) Requests for bids/proposals should be publicly advertised by placing them on the Corporation and/or the Nassau County website and/or by placing notice in either a newspaper of general circulation or a trade journal, if appropriate. The goal of this Policy is to seek the widest, cost-effective distribution of the request for bids/proposals.
 - (iii) Bids/proposals should be solicited from an adequate number of qualified sources.
 - (iv) The Chief Executive Officer should establish a method for conducting evaluations of the bids/proposals received and for selecting awardees for the procurement in accordance with this Policy.
- C. Exceptions: Notwithstanding the provisions of Section II.A. above, a competitive process is not required:

- (i) for purchases made under a town, county or state contract pursuant to applicable law;
- (ii) for purchases made from agencies for the blind or severely handicapped pursuant to applicable law;
- (iii) for purchases of articles manufactured in correctional institutions pursuant to applicable law;
- (iv) in the event of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or life, health, safety or property of some or all of the inhabitants of Nassau County require immediate action which cannot await a competitive procurement;
- (v) for the purchase of surplus and second-hand supplies, material or equipment, which may be purchased from the federal government, the State of New York or from any political subdivision, district or public benefit corporation of the State of New York pursuant to applicable law;
- (vi) where the directors of the Corporation adopt a resolution waiving the competitive process because such process is deemed impracticable under the circumstances; and
- (vii) where there is only one possible source from which to procure the required good or service and it is determined by resolution of the directors of the Corporation that the required good or service has unique benefits, the cost is reasonable for the good or service and there is no competition reasonably available.

III. Non-Competitive Procurement for Purchase Contracts Under \$10,000

- A. Purchase Contracts Valued at \$500 and Under. All purchase contracts valued at \$500 and under shall be awarded by the Chief Executive Officer using his/her judgment as to the most appropriate vendor, without further documentation.
- B. Purchase Contracts Valued at over \$500 but Not Exceeding \$3,000. The Chief Executive Officer shall use reasonable efforts to obtain at least three (3) verbal bids or price quotations for such procurement. The Chief Executive Officer shall document, in reasonable detail, such efforts and the result.
- C. Purchase Contracts Valued at over \$3,000 but Not Exceeding \$10,000. The Chief Executive Officer shall use reasonable efforts to obtain at least three (3) written/fax bids or price quotations for such procurement. The Chief Executive Officer shall document, in reasonable detail, such efforts and the result.

IV. Non-Competitive Procurement for Public Work Contracts Under \$20,000

- A. Public Work Contracts Valued at \$1,000 and Under. All public work contracts valued at \$1,000 and under shall be awarded by the Corporation's Chief Executive Officer using his/her judgment as to the most appropriate vendor, without further documentation.
- B. Public Work Contracts Valued at over \$1,000 but Not Exceeding \$5,000. The Chief Executive Officer shall use reasonable efforts to obtain at least three (3) verbal bids or price quotations for such procurement. The Chief Executive Officer shall document, in reasonable detail, such efforts and the result.
- C. Public Work Contracts Value at Over \$5,000 but Not Exceeding \$20,000. The Chief Executive Officer shall use reasonable efforts to obtain at least three (3) written/fax bids or price quotations for such procurement. The Chief Executive Officer shall document, in reasonable detail, such efforts and the result.
- D. Exceptions.
 - (i) Professional Services. Contracts for professional services involving application of specialized expertise, the use of professional judgment and/or a high degree of creativity shall not be subject to the competitive process above. Professional services include services which require special education and/or training, license to practice or are creative in nature. Furthermore, professional service contracts often involve a relationship of personal trust and confidence. Examples of professional and creative services are: (a) legal counseling and representation (including general and bond counsel); (ii) medical services; (iii) engineering and architectural services; (iv) lobbying, legislative and intergovernmental relations advice and representation; and (v) public relations services. All contracts for professional services shall be awarded by resolution of the directors of the Corporation based upon a consideration of cost, experience, expertise, reputation, location and suitability for the needs of the Corporation. Where a competitive process is not utilized, the Corporation shall, at a minimum, solicit alternative proposals or quotations by request for proposals, or written or verbal quotations, unless such solicitation of alternative proposals or quotations will not be in the best interest of the Corporation.
 - (ii) Insurance. All insurance policies shall be procured in accordance with the following procedures:
 - (a) Premium not exceeding \$10,000. The Chief Executive Officer shall use reasonable efforts to obtain verbal quotations from at least three (3) agents or insurance companies. The Chief Executive Officer shall document, in reasonable detail, such efforts and the result.
 - (b) Premium exceeding \$10,000. The Chief Executive Officer shall use reasonable efforts to obtain written/fax quotations from at least three (3)

agents or insurance companies. The Chief Executive Officer shall document, in reasonable detail, such efforts and the result.

- (iii) Marketing. Contracts for marketing, promotional advertising and sponsorship of charitable and civic events and similar services shall not be subject to the competitive process set forth above, provided that the directors of the Corporation shall determine by resolution that such contract is in furtherance of the purposes of the Corporation. Notwithstanding the foregoing, the award of contracts, of up to \$2,500 each, for marketing, promotional advertising, sponsorship and similar services may be awarded by the Chief Executive Officer using his/her judgment, in keeping with the best interests of the Corporation.

V. Award/Documentation of Contracts

A. Basis for Award of Contracts. Contracts will be awarded to the lowest cost responsible offeror/bidder who meets the specifications for the procurement, except in circumstances that the Chief Executive Officer determines justify an award to other than the lowest cost responsible offeror/bidder.

B. Justification of Award to Other Than Lowest Cost Offer/Bid. In making a determination to award a contract to other than the lowest cost responsible offeror/bidder, the Chief Executive Officer shall consider relevant factors, including, without limitation:

- (i) Delivery requirements;
- (ii) Quality requirements;
- (iii) Past vendor performance;
- (iv) Quality;
- (v) The unavailability of three (3) or more contractors/vendors who are able to quote/bid on the procurement; and
- (vi) That it may be in the best interest of the Corporation to consider only one (1) contractor/vendor who has previous expertise with respect to a particular procurement.

C. Documentation.

- (i) A record of all solicitations for proposals or quotations, the response (if applicable), and any determinations pursuant thereto shall be maintained in the Corporation's procurement file.
- (ii) For each procurement, the Chief Executive Officer shall set forth in writing the category of procurement being made and what method of procurement is being utilized.

- (iii) For procurements not subject to the competitive process, documentation should include a memo to the Corporation's procurement file which details why the procurement is not subject to the competitive process and include, as applicable, a description of the facts and circumstances giving rise to the exception.
- (iv) Whenever a contract is awarded to other than the lowest cost responsible offeror/bidder, the reasons therefore shall be set forth in writing and maintained in the procurement file.
- (v) Whenever the specified number of quotations/bids cannot or will not be obtained, the reasons therefore shall be set forth in writing and maintained in the procurement file.

VI. Miscellaneous Provisions

- A. Comments concerning this Policy shall be solicited from the directors of the Corporation from time to time and the Corporation should review this Policy annually.
- B. The Chief Executive Officer shall present any legal issues regarding the applicability of the provisions of this Policy to the Corporation's General Counsel.
- C. Subject to the foregoing limitations on the awards of contracts for goods and services, the Chief Executive Officer and Administrative Director are authorized and empowered to request proposals and/or qualifications and otherwise obtain information regarding potential Corporation contracts.
- D. THE FOREGOING PROCEDURES ARE IN ADDITION TO AND NOT IN LIEU OF THE SAFEGUARDS AND PROCEDURES ADOPTED BY THE CORPORATION FROM TIME TO TIME REGARDING CHECK WRITING AUTHORITY AND THE CORPORATION'S BUDGET PROCESS.
- E. In the absence or unavailability of the Corporation's Chief Executive Officer to act as aforesaid, the Chairman or Vice Chairman may, orally or in writing, authorize the Administrative Director to award any contracts with the same authority of the Chief Executive Officer as aforesaid.
- F. The Corporation may, from time to time, adopt different procedures, or deviate from any of the above procedures, on a case-by-case basis.

Re-adopted by the directors of the Corporation as of the ____ day of February, 2013.

05-429744.1