

## Resolution adopting a Procurement Policy

BE IT RESOLVED, by the Rochester Urban Renewal Agency as follows:

Section 1. The Rochester Urban Renewal Agency hereby adopts the following Procurement Policy:

**A. Purpose.** This Procurement Policy (“Policy”) shall apply to the procurement of goods and services paid for by the Rochester Urban Renewal Agency (“Agency”) for its own use and account. The primary objectives of this Policy are to assure the prudent and economical use of public monies in the best interests of the Agency, to facilitate the acquisition 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.

**B. Definitions.** When used for the Program, the following words and phrases shall have the following meanings:

(1) **MINORITY-OWNED BUSINESS ENTERPRISE (MBE)** — A for-profit business concern that is certified by New York State as an MBE.

(2) **WOMEN-OWNED BUSINESS ENTERPRISE (WBE)** — A for-profit business concern that is certified by New York State as a WBE.

(3) **DISADVANTAGED BUSINESS ENTERPRISE (DBE)** — A for-profit business concern that is certified by the New York State Department of Transportation as a DBE.

(4) **ETHICS OFFICER** — The Corporation Counsel of the City of Rochester unless and until the Governance Committee of the Agency Board appoints another person to the position or designates said Committee itself for the position.

**C. Procurement Procedures.**

(1) **Up to \$5,000 per instance.** A contract may be awarded in the discretion of the Agency Secretary or, in their absence, the authorized designee of the Secretary.

(2) **Greater than \$5,000 to \$10,000 per instance.** Upon receipt of documented oral quotations or written/fax/email quotations from at least three (3) vendors, a contract may be awarded in the discretion of the Agency Secretary, or, in their absence, the authorized designee of the Secretary.

(3) **Greater than \$10,000 per instance.** Upon receipt of documented oral quotations or written/fax/email quotations from at least three (3) vendors, a contract may be awarded to the lowest responsible bidder in the opinion of the Board.

(4) **Greater than \$15,000 estimated annualized expenditure.** Conduct solicitation in accordance with NYS Procurement Lobbying Act restrictions on contacts and lobbying rules pursuant to Section 139-j of the NYS State Finance Law (the “Anti-

Lobbying Rule”), including but not limited to:

(a) Notifying prospective bidders of the Anti-Lobbying Rule’s restrictions on contacts with the Agency during the solicitation and bidding process, identifying the Secretary (or another contact person with knowledge of the procurement who is designated by the Secretary) as the sole Agency official authorized to be contacted during the bidding process, and requiring bids to be accompanied by a written statement acknowledging to committing to abide by such restrictions;

(b) Requiring the Secretary or other designated contact to develop and keep in the Agency’s procurement file a detailed record of each contact with a bidder regarding procurement.

(c) Inquiring about and factoring into the review process whether a bidder is a Non-Responsible Offeror. A finding by the Agency or some other governmental agency or public authority that a bidder has knowingly and willfully violated the Anti-Lobbying Rule shall result in a determination of non-responsibility for such bidder and its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders (hereinafter, for the purposes of this paragraph “Non-Responsible Offeror”). A procurement contract shall not be awarded to a Non-Responsible Offeror, unless the Secretary or other designated contact person finds, and confirms such finding in writing, that the award of the procurement contract to such Offeror is necessary to protect public property or public health or safety, and that the Offeror is the only source capable of supplying the required article of procurement within the necessary timeframe.

The Ethics Officer shall be responsible for reviewing and investigating allegations of impermissible contact during a procurement that is subject to the Anti-Lobbying Rule, and to impose sanctions in instances where violations have occurred in accordance with Section 139-j(9) of the State Finance Law. The Ethics Officer shall file and retain in the Agency’s procurement file a record of each improper contact or other violation of the Anti-Lobbying Rule.

(5) **Summary of procurement rules.** A summary of the Agency’s applicable procurement policies and prohibitions shall be incorporated into every solicitation of proposals, bid documents, or specifications for procurement contracts.

(6) **Non-collusion certification.** Every bid or proposal submitted to the Agency as part of a competitive bidding process shall contain a certification that there has been no unlawful collusion involved in accordance with Section 2878 of the NYS Public Authorities Law.

(7) **Exceptions.** Bids or quotations shall not be required for the purchase of commodities, equipment, goods or construction, demolition, renovation, and reconstruction services made through:

(a) **New York State, Monroe County, or City of Rochester Contracts.** When the Agency is able to procure commodities, equipment, goods or

services through New York State, Monroe County, or City of Rochester contracts, it shall be unnecessary to obtain bids or quotations.

(b) **Emergency Procurements.** In the event of an emergency, it shall be unnecessary to obtain bids or quotations. An emergency shall be deemed to exist if the delay caused by soliciting quotes would endanger health, welfare, or property. Approval by the Secretary or, in the absence of the Secretary, the Secretary's authorized designee, shall be necessary, accompanied by a written description of the facts establishing the emergency.

(c) **Sole Source Procurements.** In the event of a sole source supplier, it shall be unnecessary to obtain bids or quotations. A "sole source" means a situation where (i) there is only one possible source from which to procure the specified goods and/or services, (ii) no other goods and/or services provide substantially equivalent or similar benefits, and (iii) considering the benefits, the cost to the Agency is reasonable.

(d) **Utilities and Affiliate Transactions.** The purchase of utilities and inter-affiliate transactions are excepted from proposal/quotation requirements.

(e) **Unavailability of three (3) vendors.** It shall be unnecessary to obtain bids or quotations in the event of the unavailability of three (3) vendors who are able or willing to provide a quote. In such circumstances, bids or quotations from two (2) vendors will suffice when they can be obtained or a bid or quotation from one (1) vendor will suffice when only one can be obtained.

(8) **Basis for the Award of Contracts.** The Agency may reject all bids. The Agency may reject any bid, if, in the judgment of the Secretary, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed. In making any such determination, the relevant factors considered shall include, without limitation:

- (a) Delivery requirements;
- (b) Quality requirements;
- (c) Quantity requirements;
- (d) Past vendor performance and/or experience; or
- (e) Disqualification of Non-Responsible Offeror pursuant to Section C.4.c, above.

(9) **Documentation.**

(a) A record of all solicitations for proposals or quotations, the response (if applicable), and any determinations pursuant thereto shall be maintained in the Agency's procurement file.

(b) For each procurement by the Agency, the Secretary (or, in the absence of the Secretary, the Secretary's authorized designee) shall set forth in writing

the category of procurement that is being used and the basis for the award.

(c) Whenever an award is made to other than the lowest responsible bidder the reasons for so doing shall be set forth in writing and maintained in the procurement file for at least six (6) years.

(d) Whenever the specified number of quotations cannot be secured, the efforts to obtain quotations shall be documented and maintained in the procurement file.

**D. PROFESSIONAL SERVICES.** Professional Services shall mean services which require special education and/or training; involve specialized expertise; or are licensed, including, without limitation, legal services, accounting services, brokerage services, appraisal services, and engineering services. Professional Service contracts often involve a relationship of personal trust and confidence.

(1) In the selection of a provider of Professional Services up to \$20,000 per instance, the provider may be selected by the Secretary or, in the Secretary's absence, the Secretary's authorized designee.

(2) In the selection of a provider of Professional Services for a contract which exceeds \$20,000 the Agency shall issue a Request for Proposals. The Board, or a committee of its members, may exercise its discretion and apply its judgment regarding any aspect of the Request for Proposals, the evaluation of proposals received, and the negotiation and awarding of any contract resulting from the Request for Proposals.

(3) The Agency may contract for only portions, or not enter into an agreement for any, of the Professional Services contemplated by the proposals solicited under this Policy. The Agency may select the proposal that best satisfies its interests without exclusively relying on price or any other single factor. The Agency may use such criteria in the selection of a provider of Professional Services as it deems most appropriate.

**E. EFFECT OF OTHER PROCUREMENT REQUIREMENTS.** Where the procurement of a specific good or service is accomplished using funds other than the funds of the Agency and such funding sources specify different or more restrictive procurement requirements than are provided for in this Policy, the procurement requirements of the funding source shall supersede the requirements of this Policy.

**F. UNINTENTIONAL FAILURE TO COMPLY.** The unintentional failure to comply with this Policy shall not be grounds to void any contract nor shall the same be the basis of any cause of action against the Land Bank or any officer thereof.

**G. WOMEN, DISADVANTAGED AND MINORITY-OWNED BUSINESSES.** The Agency shall use its best efforts to afford Women-Owned Business Enterprises, Disadvantaged Business Enterprises, and Minority-Owned Business Enterprises the maximum practicable opportunity to participate in the performance of this purchasing and procurement program of the Agency. If performance of a particular procurement contract will require the use of subcontractors, the Agency shall consider requiring the contractor to act affirmatively to secure such participation by Women-Owned Business Enterprises, Disadvantaged Business Enterprises, and Minority-Owned Business Enterprises and report such efforts to the Agency.

Section 2. This resolution shall take effect immediately.