

LIVINGSTON COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Procurement Policies & Procedures

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1. INTRODUCTION

The policies and procedures set forth herein have been developed by the Livingston County Industrial Development Agency (the "Agency") pursuant to New York State General Municipal Law Section 104-b regarding the procurement of Goods and Services not required by law to be procured pursuant to competitive bidding.

These policies and procedures apply only to Goods and Services paid for by the Agency for its own use and account. They do not apply to Goods or Services (such as, but not limited to, Bond Counsel or construction Services) for a project for which the Agency will not be the project operator or occupant.

The Agency adopted these policies and procedures at a meeting held on June, 2, 2006.

2. DECLARATION OF POLICY

Goods and Services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys in the best interest of the tax payers of Livingston County, to facilitate the acquisition of Goods and Services of maximum quality at the lowest possible cost under the circumstances, including emergencies, and to guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the Members of the Livingston County Industrial Development Agency have adopted the policies and procedures set forth herein governing all procurement of Goods and Services which are not required to be made pursuant to the competitive bidding requirements of Section 103 of the General Municipal Law or of any other general, special or local law.

3. DEFINITIONS

The following terms shall have the following meanings:

1. "Agency" shall mean the Livingston County Industrial Development Agency.
2. "Competitive Quotations" means the procurement of Goods and/or Services, in accordance with the provisions of Section 6 herein.
3. "Contract" shall mean a public work Contract, a purchase Contract, or, generally a Contract for Goods or Services in accordance with the provisions herein.

4. "County" shall mean the County of Livingston, New York.
5. "Goods" shall mean products, materials, supplies, equipment, apparatus and other like items, and the necessary Services related to these items.
6. "Members" shall mean the Members of the Agency.
7. "Procurement" or "procure" shall mean the obtaining, through Contract or agreement of Goods and/or Services in accordance with these policies and procedures.
8. "Procurement Officer" shall mean the (Administrative/Executive) Director of the Agency or such other officer or employee of the Agency designated by the Members to carry out the general and specific provisions of the policies and procedures set forth herein.
9. "Professional Services" means for those Services requiring special or technical skills, training, expertise, or licensing, or such Services which involve the use of professional judgment and/or a high degree of creativity, or which involve a relationship of personal trust or professional confidence including, but not limited to, engineering, architectural, medical, financial and legal services.
10. "Services" shall mean, generally, labor and/or construction to be performed.
11. "Sole Source Goods or Services" shall mean Goods or Services for which the Procurement Officer has determined that there is only one possible source from which to procure the desired Goods or Services, including, but not limited to, certain patented Goods or Services, or public utilities; provided, however, the procurement Officer must certify that such Goods or Services are available from only one source so that no possibility of competition exists, including a showing that, at least (a) the unique benefits of the desired Goods or Services as compared to other such Goods or Services available in the marketplace, (b) no other Goods or Services provide substantially equivalent or similar benefits, and (c) considering the benefits received, the cost of the Goods or Services is reasonable, when compared to conventional methods.
12. "State" shall mean the State of New York.
13. "Vendor" shall mean a supplier or prospective supplier of Goods or Services.

4. DETERMINATION OF PROCUREMENT

The Procurement Officer is hereby designated to be responsible for determining whether a procurement of Goods or Services is subject to Competitive Quotations or is exempt from such procurement, and the Procurement Officer is authorized to determine that the nature of a

particular project or class of projects is exempt from the procurement policies described herein. The Procurement Officer shall cause to be made, in writing, the basis and other facts and circumstances relevant to making such a determination. The Agency hereby finds and determines that Professional Services are, in all cases, exempt from these procurement policies and procedures, as solicitation of alternate proposals and quotations is not in the best interest of the Agency in situations in which special skills and expertise are required.

5. NO COMPETITIVE BIDDING

As of the date of adoption of these policies and procedures, the Agency is not subject to the competitive bidding requirements of Section 103 of the General Municipal Law.

6. COMPETITIVE QUOTATIONS

6.1 Written Descriptions Required

Upon a determination by the Procurement Officer that Goods or Services are to be procured through competitive or verbal quotations, the Procurement Officer shall cause to be made a written description for each such Goods or Services to be procured. Such description need not necessarily include detailed specifications but may be generic or in outline form or describe the result sought by the Agency. Such written description shall contain that information deemed necessary for the procurement of the desired Goods or Services in accordance with the policies of the Agency, including a statement that the requested bid or quotation price shall include a statement whether cost of delivery is included, a statement that the Agency reserves the right to reject all bids or quotations, waive minor deviations, consider alternative bids or quotations, negotiate price and terms with those making a bid or quotation (provided that negotiations with all those making a bid or quotation will be on substantially the same basis and regarding substantially the same matters), subject to the same terms and conditions of the written descriptions being sought by the Agency and a statement regarding security and/or insurance, if required.

6.2 Soliciting Written Competitive Quotations

a. If the cost of the Goods or Services to be procured, based upon the written description prepared for the desired Goods or Services, will require an expenditure of more than \$1,000, but less than \$10,000, the desired Goods or Services shall be procured through Competitive Quotations solicited from not less than two vendors.

- b. If the cost of the Goods or Services to be procured, based upon the written description prepared for the desired Goods or Services, will involve an expenditure of more than \$10,000, the desired Goods or Services shall be procured through Competitive Quotations solicited from not less than three vendors.
- c. If, following reasonable efforts, insufficient numbers of Vendors exist for the solicitation of the requisite number of Competitive Quotations, then the Procurement Officer shall cause to be solicited Competitive Quotations from less than the requisite number of Vendors; provided, however, that the basis and other facts and circumstances or such efforts and/or findings relating to this provision shall be placed in writing.
- d. The Procurement Officer shall cause to be made a record of the written description, the solicitation of the Competitive Quotations, the Competitive Quotations received and any other documents or materials prepared or received in connection with the procurement of Goods and Services of the Agency.
- e. Competitive Quotations need not be sealed and need not be opened and read at a stated time.
- f. The Procurement Officer need not recommend the procurement of goods and services from the Vendor offering the lowest dollar quotation, but may recommend to the Members determinations of which quotations will fulfill or meet the best interests or needs of the Agency, and each recommended determinations may be based on such factors such as, without limitation, quality, features or options, reliability or reputation of the Vendor, availability of service, delivery time and location of the Vendor (local vis-à-vis non-local, in-state vis-à-vis out-of-state or country); and the Procurement Officer may negotiate terms and price with all Vendors submitting quotations (provided that all such negotiations will be on substantially the same matters), and the determination of the Members pursuant to the Procurement Officer's recommendations made in good faith shall be final.

6.3 Exceptions

- 1. General Exceptions – The following Goods and Services may be procured by the Agency without soliciting competitive quotations:

a. Services performed by inmates, or Goods manufactured, in correctional facilities operated by the New York State Department of Correctional Services or in local correctional facilities of this State; provided, however, that the procurement of such Goods and Services shall be in accordance with Section 186 of the Correction Law;

b. Goods and Services produced or assembled by the blind or other severely handicapped; provided, however, that the procurement of such Goods and Services shall be in accordance with Section 175-B of the State Finance Law;

c. Goods procured by the County in accordance with subdivision (2) of Section 408-a of the County Law; provided, however that no such procurement shall be made from the County when Competitive Quotations have already been received, unless such procurement may be made upon the same terms, conditions and specifications of a lower price through the County;

d. Goods in excess of \$500.00 procured by the State through the New York State Office of General Services, subject to rules established by such Office, in accordance with Section 163 of the State Finance Law; provided, however, that no such procurement shall be made from such Office when competitive Quotations have already been received, unless such procurement may be made upon the same terms, conditions and specifications at a lower price through such office;

e. Surplus and/or second hand Goods which are being offered for purchase from the federal or State governments or any other political subdivision or public benefit corporation within the State of New York.

2. Special Exceptions – Upon a determination that Goods or Services are (1) Professional Services (2) Sole Source Goods or Services or (3) Goods or Services deemed by the Procurement Officer, in his or her sole discretion, not in the best interest of the Agency to be procured in accordance with the Competitive Quotation requirements set forth herein, the Procurement Officer may procure such Goods or Services in such manner as the Procurement Officer determines to be in the best interest of the Agency and which otherwise is in accordance with the policies of the Agency, as set forth in Section 2 herein.

6.4 Entering Into the Contract

a. Except as provided in Section 6.4(b) herein, upon receipt of the requisite number of Competitive Quotations, the

Procurement Officer shall recommend to the Members that the Agency enter into a Contract, or enter into an agreement, for such Goods or Services to the Vendor that submitted the Competitive Quotation with the lowest dollar offer for such Goods or Services, but subject to the provisions of Section 6.2(f) hereof.

b. If the Procurement Officer shall recommend to the Members that the Agency enter into a Contract for Goods or Services to a Vendor that did not submit the Competitive Quotation with the lowest dollar offer, the Procurement Officer shall state the reasons such an award furthers the policy set forth in Section 2 herein and in accordance with Section 6.2(f) hereof.

c. Upon the procurement of Goods or Services in accordance with the provisions of Section 6.3 herein, the Procurement Officer shall recommend to the Members that the Agency award a Contract, or enter into an agreement, for such Goods or Services to the Vendor identified by the Procurement Officer.

d. Upon receipt of the recommendation by the Procurement Officer regarding the entering into a Contract, the Members shall authorize the Procurement Officer to cause to be procured such Goods or Services with the recommended Vendor; provided, however, that the Members reserve the right to reject all bids or quotations, waive minor deviations, consider alternative bids or quotations, subject to the same terms and conditions of the written descriptions being sought by the Agency.

6.5 Small Purchases (\$1,000 or less)

a. Notwithstanding the provisions set forth herein, the procurement of Goods or Services involving an expenditure of up to five hundred dollars (\$500) may be made without seeking Competitive Quotations; provided, however, that any Agency employee authorized to make such a procurement shall use his or her best efforts to obtain the lowest cost for such Goods or Services, but taking into consideration the terms of Section 6.2(f) hereof.

b. Notwithstanding the provisions set forth herein, the procurement of Goods or Services involving an

expenditure of more than five hundred dollars (\$500) but not more than one thousand dollars (\$1,000) may be made using verbal Competitive Quotations. The Agency employee authorized to make such a procurement shall solicit not less than two verbal Competitive Quotations.

- c. Upon the determination that the procurement of Goods or Services involving an expenditure of not more than one thousand (\$1,000) is such that competition is not likely, including, but not limited to, periodicals, subscriptions, books, specialty training materials, Memberships and computer software upgrades from the manufacturer, the procurement of such Goods or Services may be made without Competitive Quotations.

6.6 Policy for Agency's Benefit

These policies and procedures are intended solely for the benefit of the Agency and are not intended for the economic or other benefit of any particular Vendor making a quotation; and accordingly, no Vendor shall have the right to challenge the determination of the Agency to enter into Contracts for Goods and Services in accordance with the policies and procedures herein set forth.

7. Miscellaneous

1. The Members shall review the policies and procedures herein not later than March 31, 1995, and each year thereafter. Amendments to these policies and procedures may be made at any time during the year.

2. The unintentional failure to fully comply with the provisions of the policies and procedures set forth herein shall not be grounds to void action taken or give rise to a cause of action against the Agency, the Members, the Procurement Officer, or any officer or employee of the Agency.