

RENSSELAER COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PROCUREMENT POLICY

Adopted November 13, 2003

Amended and Readopted March 12, 2009

SECTION 1. PURPOSE AND AUTHORITY. The purpose of this procurement policy (the "Policy") is to outline the procurement policy of Rensselaer County Industrial Development Agency (the "Agency") pursuant to Section 858-a(2) of Title One of Article 18-A of the General Municipal Law (the "Act") applicable to procurements of goods and services paid for by the Agency for its own use and benefit.

SECTION 2. SECURING GOODS AND SERVICES. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided except for in the following circumstances: Purchases costing less than \$500; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; Purchases under state contracts pursuant to Section 104 of the General Municipal Law; Purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or Purchases pursuant to subdivision 4 of this Policy.

SECTION 3. METHOD OF PURCHASE. The following method of Purchase will be used when required by this Policy in order to achieve the highest savings:

<u>Estimated Amount of Purchase Contract</u>	<u>Method</u>
\$500-\$2,999	2 verbal quotations
\$3,000 and above	3 written/fax quotations or written request for proposals

<u>Estimated Amount of Public Works Contract</u>	<u>Method</u>
\$500-\$2,999	2 verbal quotations
\$3,000-\$4,999	2 written/fax quotations
\$5,000 and above	3 written/fax quotations or written request for proposals

(B) Number of Proposals or Quotations. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

(C) Documentation. Documentation is required of each action taken in connection with each procurement. Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

SECTION 4. CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS AND QUOTATIONS NOT IN BEST INTEREST. Pursuant to Section 104-b(2)(f) of the General Municipal Law, this Policy may contain circumstances when, or types of procurements for which, in the sole discretion of the members of the Agency, the solicitation of alternative proposals or quotations will not be

in the best interest of the Agency. In the following circumstances, it may not be in the best interests of the Agency to solicit quotations or document the basis for not accepting the lowest bid:

(A) Professional Services. Professional services or services requiring special or technical skill, training or expertise. The individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, conflict of interests, reputation, education and training, judgment, integrity, continuity of service and moral worth. Furthermore, certain professional services to be provided to the Agency, e.g., legal and accounting services, impact liability issues of the Agency and its members, including securities liability in circumstances where the Agency is issuing bonds. These qualifications and the concerns of the Agency regarding its liability and the liability of its members are not necessarily found or addressed in the individual, company or firm that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures.

In determining whether a service fits into this category, the Agency shall take into consideration the following guidelines: (a) whether the services are subject to state licensing or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and the members of the Agency. Professional or technical services shall include but not be limited to the following: services of an attorney (including bond counsel); services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of Agency-owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.

(B) Emergency Purchases. Emergency purchases pursuant to Section 103(4) of the General Municipal Law. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the public. This section does not preclude alternate proposals if time permits. If the Executive Director of the Agency issues a "Declaration of Emergency" describing the emergency, the Executive Director may then determine whether this method of source selection would be appropriate for the circumstances and as an alternative procurement. Such emergency and its consequences shall be described to the members of the Agency at its next meeting.

(C) Purchases of Secondhand Goods. Purchases of surplus and second-hand goods from any source. If alternate proposals are required, the Agency is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product. The Executive Director of the Agency determines when this method of source selection would be appropriate for the circumstances and as an alternative procurement.

(D) Goods or Services Under \$500. The time and documentation required to Purchase through this Policy may be more costly than the item itself and would therefore not be in the best interests of the Agency. In addition, it is not likely that such *de minimis* contracts would be awarded based on favoritism. The Executive Director of the Agency determines when this method of source selection would be appropriate for the circumstances and as an alternative procurement.

(E) Sole Source Procurements. Sole source purchases may only be made where the Agency's requirements are available from only one source of supply. If the Executive Director of the Agency determines that there is only one source that will satisfy the requirements and/or circumstances present, the Executive Director may negotiate and award a contract without competition to the sole source. The

Executive Director of the Agency shall present a recommendation to the members of the Agency when this method of source selection would be appropriate for the circumstances and as an alternative procurement present, accompanied by a written document indicating the conditions which preclude the use of a competitive process. The members of the Agency must approve the use of this method.

(F) Negotiated Acquisition. Under this method of source selection, the Agency is permitted, under limited circumstances, to forego the competitive sealed bid and competitive sealed proposal processes and conduct negotiations with all responsible contractors who have expressed an interest in the needed work. Negotiated Acquisition now applies to ALL categories of procurement. This technique is primarily used, under the following limited circumstances:

- time-sensitive situations;
- limited number of suppliers available and able to perform the work;
- compelling need to extend a contract; and
- legal, construction, and investment fund services.

The Executive Director of the Agency makes a recommendation when this method of source selection would be appropriate for the circumstances and as an alternative procurement, and the members of the Agency must approve the use of this method.

(G) Demonstration Projects for Innovative Products, Approaches or Technologies. A demonstration project is a short term carefully planned pilot exercise designed to test and evaluate the feasibility and application of an innovative product, approach or technology not currently used by the Agency. Demonstration projects are a means of testing new ideas, products and approaches to improving quality. A demonstration project may be proposed for goods, services or construction and may be initiated by an unsolicited proposal. It is up to the Agency to decide whether or not to proceed with a demonstration project. Resultant contracts generally will not exceed one year unless the Agency makes a determination to the contrary. The Executive Director of the Agency makes a recommendation when this method of source selection would be appropriate for the circumstances and as an alternative procurement, and the members of the Agency must approve the use of this method.

(H) Innovative Procurement Methods. This rule allows for testing an innovative procurement method not currently provided for under this Policy. In order to utilize this method, the Executive Director of the Agency must describe the nature and requirements of the proposed procurement method and explain why its use is in the Agency's best interest, and the members of the Agency must approve the use of the new method.

(I) Government-To-Government Purchases. The Executive Director of the Agency is authorized to procure goods or services from another governmental entity, and to provided that such purchase is in the best interest of the Agency as determined by the Executive Director of the Agency.

SECTION 5. POLICY REVIEW. This Policy will be reviewed annually.