

**CITY OF COHOES INDUSTRIAL DEVELOPMENT AGENCY
PROCUREMENT POLICY**

- I. **PURPOSE.** The purpose of this procurement policy (the “Policy”) is to set forth the guidelines for the Cohoes Industrial Development Agency’s (the “Agency”) use, awarding, monitoring and procurement of contracts for the purchase of goods and services paid for by the Agency for its own use and benefit, pursuant to Section 858-a(2) of Title One of Article 18-A of the General Municipal Law (the “Act”) and Section 2879 of the New York Public Authorities Law.

- II. **PROCUREMENT OF 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 unfair preference will be avoided, except 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 Section 504 of this policy.

- III. **AMOUNT OF PURCHASE.**

A. General. The following method of purchase will be used:

<u>Estimated Amount of Purchase Contract</u>	<u>Method</u>
\$500-\$2,999	3 verbal quotations
\$3,000 and above	3 written/fax quotations or written request for proposals
\$15,000 and above	Written Request for Proposals
<u>Estimated 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	Fax quotations/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 Agency is unable to obtain the required number of proposals or quotations, the Agency will document the attempt made at obtaining the proposals. So long as a good faith attempt is made to obtain proposals, the failure to obtain the proposals will not be a bar to the procurement.
- C. Agency Executive Staff and/or the Chairman, after obtaining all information necessary pursuant to subsection A of this Article, shall have the authority to procure and enter into contracts valued at \$15,000 or less without Board Approval.

IV. PROCUREMENT PROCESS

A. Awards.

Contracts will be awarded to the lowest responsible bidder who meets the specifications.

B. Documentation.

(1) Documentation is required of each action taken in connection with each procurement.

(2) 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.

(3) For those items not subject to competitive bidding such as professional services, emergencies, or procurements from sole sources, or for other reasons permitted by law, documentation should include a memo to the file detailing why the procurement is not subject to competitive bidding and include, if applicable:

- i. a description of the facts giving rise to the emergency and that it meets statutory requirements;

- ii. a description of the professional services;

- iii. opinions of counsel, if any;

- iv. a description of the sole source items and how such determination was made.

(4) When an award is made to other than the lowest quote/proposal, the reasons for doing so shall be set forth in writing and maintained in the procurement file.

(5) Whenever the specified number of quotation cannot or will not be secured, the

reasons for this shall be indicated in writing and maintained in the procurement file.

V. CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS AND QUOTATIONS NOT IN BEST INTEREST.

Pursuant to General Municipal Law Section 104-b(2)(f), the procurement 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, judgement, 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 Agency members. Professional or technical services shall include but not be limited to the following: services of an attorney (including bond counsel); 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 municipally owned property; real estate brokerage services; appraisers; 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.

(C) Purchases of Secondhand Goods. Purchases of surplus and second-hand goods from any source. It is difficult to try to compare prices of used goods and a lower price may indicate an older product.

(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 taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on unfair preference.

(E) Special Findings. In the event the Agency determines that the solicitation of alternative proposals or quotations is not in the best interests of the Agency, the Agency must make such determination by resolution duly adopted and entered into the minutes of the Agency. Such resolution should include any findings described in this Section 504 supporting such determination.

VI. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN.

(A) All Agency documents soliciting bids or proposals for Agency contracts shall contain or make reference to the following provisions:

1. The Agency will not discriminate against employees or applicants for employment because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, or marital or domestic partner status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this Section, affirmative action shall mean recruitment, employment, job assignment promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; and
2. The Agency shall state, in all solicitations or advertisements for employees, that, in the performance of the Agency contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, or marital or domestic partner status.

(B) Any contract awarded by the Agency will include the provisions of Section (A) hereof in any subcontract, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the Agency contract.

(C) The provisions of this policy shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the Agency contract as expressed by its terms.

(D) In the implementation of this policy, the Agency shall consider compliance

by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this Section. The Agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the Agency shall waive the applicability of this Section 505 to the extent of such duplication or conflict.

(E) The Agency shall ensure that "certified businesses" (as defined in Section 310 of the Executive Law of the State of New York) shall be given the opportunity for meaningful participation in the performance of Agency contracts and to identify those Agency contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of Agency contracts so as to facilitate the award of a fair share of Agency contracts to such businesses.

V. POLICY REVIEW. This policy will be reviewed annually.