

# NIAGARA COUNTY BROWNFIELD DEVELOPMENT CORPORATION PROCUREMENT POLICIES AND PROCEDURES

## I. Introduction

A. Scope - In accordance with the Public Authorities Accountability Act, the Niagara County Brownfield Development Corporation (“NCBDC”) is required to adopt procurement policies which will apply to the procurement of goods and services.

B. Purpose - The primary objectives of this policy are to assure the prudent and economical use of public monies in the best interests of the taxpayers 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.

## II. Procurement Policy

A. Determination required - Prior to commencing any procurement of goods or services, the NCBDC President, or an authorized designee, shall prepare a written statement setting forth the basis for (1) the determination that competitive bidding is not required for such procurement, and if applicable, (2) the determination that such procurement is not subject to any requirements set forth in this policy. Such written statements shall be maintained by the NCBDC President, or such authorized designee, in a specially designated procurement file.

B. Procedure for determining whether procurements are subject to competitive bidding - The procedure for determining whether a procurement of goods and services is subject to competitive bidding shall be as follows:

- i. The NCBDC President, or an authorized designee, shall make the initial determination as to whether competitive bidding is required. Competitive bidding is required for expenditures of (1) more than \$20,000 for the performance of any public works contract (services, labor or construction), and (2) more than \$10,000 for any purchase contract (acquisition of commodities, materials, supplies or equipment).
- ii. The NCBDC President, or such authorized designee, shall review the purchase request and a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate purchases of a similar nature will require that the above competitive bidding procedures be followed for said expenditure.

- iii. The NCBDC President, or such authorized designee, shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to counsel.

C. Procedure for purchases subject to competitive bidding - The procedures set forth in New York General Municipal Law §103 will be utilized when competitive bidding is required by this policy.

D. Procedures for the purchase of commodities, equipment or goods under \$10,000:

- i. Up to \$1,000 The discretion of the NCBDC President or authorized designee.
- ii. \$1,001 - \$3,000 Documented verbal quotations from at least three vendors.
- iii. \$3,001 - \$10,000 Written/fax quotations from at least three vendors.

E. Procedures for the purchase of services under \$35,000:

- i. Up to \$1,000 The discretion of the NCBDC President or authorized designee.
- ii. \$1,001 - \$5,000 Documented verbal quotations from at least three vendors.
- iii. \$5,001 - \$35,000 Written/fax quotations from at least three vendors.

F. Basis for the award of contracts - Contracts will be awarded to the lowest responsible vendor who meets the specifications.

G. Circumstances justifying an award to other than the lowest cost quoted:

- i. Delivery requirements.
- ii. Quality requirements.
- iii. Quality.
- iv. Past vendor performance.
- v. The unavailability of three or more vendors who are able to quote on a procurement.

- vi It may be in the best interests of the NCBDC to consider only one vendor who has previous expertise with respect to a particular procurement.

#### H. Documentation

- i. For each purchase made, the NCBDC President, or authorized designee, shall set forth in writing the category of procurement that is being made and what method of procurement is specified.
- ii. The basis for any determination that competitive bidding is not required shall be documented, in writing, by the NCBDC President, or such authorized designee, and filed with the purchase order or contract therefore.
- iii. For those items not subject to competitive bidding, such as professional services, emergencies, purchased under city contracts or procurements from sole sources, documentation should include a memo to the file which details why the procurement is not subject to competitive bidding and include, as applicable:
  - (a) a description of the facts giving rise to the emergency and that they meet the statutory criteria; or,
  - (b) a description of the professional services; or,
  - (c) written verification of city contracts; or,
  - (d) opinions of counsel, if any; or,
  - (e) a description of sole source items and how such determinations were made.
- iv. Whenever an award is made to other than the lowest quote, the reasons for doing so shall be set forth in writing and maintained in the procurement file.
- v. Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.

#### I. Exceptions to bidding

- i. Emergency Situation - An emergency exists if the delay caused by soliciting quotes would endanger the health, welfare or property of the citizens of Niagara County. With approval by the NCBDC President, such emergency shall not be subject to competitive bidding or the procedures stated above.

- ii. Resolution Waiving Bidding Requirements - The NCBDC Board of Directors may adopt a resolution waiving the procurement policies and procedures whenever it is determined to be impracticable and not contrary to the General Municipal Law.
- iii. Sole Source - Defined as a situation when there is only one possible source from which to procure goods and/or services and it is shown that the item needed has unique benefits, the cost is reasonable for the product offered and there is no competition available. In this situation, a request for a resolution waiving bidding requirements, as described above, is required.
- iv. True Lease - Prices will be obtained through quotations whenever possible. The award shall be made on the basis of goods and/or services to be provided, ability to meet the specifications desired and price.
- v. Insurance - All insurance policies shall be procured in accordance with the following procedures:
  - (a) Recommendations for any insurance policy will be obtained from the County of Niagara Office of Risk Management.
  - (b) The recommendations obtained will be provided for consideration by the NCBDC Board of Directors who will select a policy from among those recommended by the County of Niagara Office of Risk Management.
- vi. Professional Services - This category includes services which require special education and/or training, license to practice or are creative in nature. Examples of professional services are: lawyers, doctors, accountants, engineers, artists, etc. For the procurement of professional services, the NCBDC is required to solicit written quotations from at least three (3) qualified vendors. Quotations should be forwarded to the NCBDC Board for approval of low bidder. If low bidder is not selected, proper justification and documentation is required. Such justification and documentation should be kept on file.

J. Annual review - The NCBDC Board of Directors shall annually review its policies and procedures.

K. Unintentional failure to comply - The unintentional failure to comply with the provisions of this policy shall not be grounds to void action taken or give rise to a cause of action against the NCBDC or any officer thereof.