



Procurement Policy

I. STATEMENT OF PURPOSE

It is the policy of the Schenectady Metroplex Development Authority (“Metroplex” or the “Authority”) to procure goods and services in a manner that ensures:

- (i) compliance with all provisions of law governing procurements by the Authority including but not limited to the Schenectady Metroplex Development Authority Act, as amended, Section 2879 of the Public Authorities Law, and applicable provisions of State Finance Law, including but not limited to, §139-j (3) and §139-k (6) (b);
- (ii) the acquisition of quality goods and services at the lowest possible cost in a timely and efficient manner;
- (iii) the wise and prudent use of the resources of the Authority, its clients and the taxpayers of Schenectady County;
- (iv) opportunities for Schenectady County-based businesses;
- (v) the promotion of the use of qualified State-certified Minority and Women-Owned Enterprises in Procurement Contracts in accordance with law; and
- (vi) fairness and integrity, and guards against extravagance, fraud, favoritism and corruption.

The Board of Directors must review and re-approve these guidelines annually.

II. COMPETITIVE PROCUREMENT METHODS

All procurements of goods and services shall be made by the Authority on a competitive basis except as otherwise provided in this Policy. The competitive methods used to make procurements may include:

- (i) sealed competitive bids;
- (ii) requests for proposals;
- (iii) written quotations;
- (iv) verbal quotations;
- (v) purchases made pursuant to centralized contracts let by other public and private entities pursuant to a competitive process; or
- (vi) any other competitive method of procurement that is consistent with the purposes of this Policy.

Sealed competitive bids: The Authority will procure construction contracts designed to ensure that the contract is awarded to the lowest responsible bidder submitting a bid that meets construction, demolition, or other building specifications for Metroplex-sponsored construction activities with respect to real property owned or leased by the Authority, including its parking infrastructure. In determining responsibility, the Authority shall consider factors such as financial responsibility, reliability, skill, past performance by the contractor for projects of the Authority, judgment and integrity. The Authority will abide by provisions of State Law that require, among other things, (i) there be separate specifications for major categories for work; (ii) all advertisements for sealed bids be published in the manner required by law and in such other publications as are appropriate to ensure reasonable competition; and (iii) the rationale for awarding the contract to other than the apparent low bidder be documented and retained in the procurement file.

The Authority will not let a construction contract under which the contractor is to provide both design and construction services ("design/build contract") unless: (i) this method of procurement is permitted under applicable law; and (ii) the Metroplex Fiscal Audit Committee recommends in writing prior to the commencement of the procurement process that the use of a design/build contract is in the best interests of the project and in support of that determination, identify the specific benefits, such as schedule, financial, or project feasibility, expected to be gained from a design/build method of procurement. All design/build contracts shall be awarded pursuant to a documented request for proposal process.

Request for Proposal Process: The Authority governs the solicitation, evaluation and selection of consultants and professional services by ensuring that the contract is awarded to a responsible contractor evidencing proven experience with projects of the scope, magnitude and complexity of the type that are the subject of the contract and that the contractor has the ability to perform all work required in a professional and timely manner. The solicitation process requires, among other things, that:

- (i) there be a written request for proposals setting forth the criteria and standards upon which the award is to be based;
- (ii) the notice for request for proposals be published in the manner required by law and in such other publications as are appropriate to ensure reasonable competition;
- (iii) the rationale for awarding the contract be documented and retained in the procurement file; and
- (iv) any competitive negotiations with a proposer be in the best interests of the procurement and documented in the procurement file.

Written Quotations: The Authority will solicit written quotes for purchases of supplies, materials and/or equipment with an estimate value of more than \$5,000 per year in the aggregate. Attempts at securing three written quotes (fax, catalog, internet or other advertised prices, quotes or proposals) from vendors should be obtained unless the purchase qualifies for the use of a pre-approved vendor's list, sole source, single source or an emergency exception. The Executive

Director will review bid results to determine the award, which should be made to the lowest responsible bidder.

Verbal Quotations: Purchases of office supplies, materials and equipment with an estimated price of less than \$5,000 may be ordered directly by Metroplex personnel, if approved by the Chairman, Executive Director or such other person as specifically designated by the Board, without formal competitive bid. Metroplex personnel responsible for such procurements should make significant efforts to obtain the lowest price and best overall value for Metroplex, such as comparing pricing and applicable features through the use of a catalog or other published pricing when reasonably available. Generally, three verbal quotes should be obtained, or published prices with sources (catalog, internet, other advertised prices or proposals) and a purchase order issued to the vendor, for commonly available office goods, supplies, materials and equipment.

Purchases via centralized contracts: In circumstances where Metroplex may be able to make purchases let by other public and private entities pursuant to a competitive process, the methodology must be reviewed by the Fiscal Audit Committee and recommended for acceptance by the Metroplex Board of Directors.

Other methods of procurement: The Authority may consider other methods of procurement consistent with applicable State Law and the purposes of this Policy. All methods of procurement must ensure reasonable competition given the cost and type of procurement and require written documentation of the rationale for the contract award. The procurement methodology must be reviewed by the Fiscal Audit Committee and recommended for acceptance by the Metroplex Board of Directors.

The Authority should implement and maintain a process for reviewing inquiries from unsuccessful bidders and proposers. Such process ensures that unsuccessful bidders and proposers are treated in a fair and equitable manner.

III. NON-COMPETITIVE PROCUREMENT METHODS

The Authority is not required to use a competitive method of procurement in the following instances:

Professional Services: Contracts for legal, architectural, engineering, surveying and management services may be negotiated on the basis of demonstrated competence and qualification for the type of professional services required at fair and reasonable fees. Firms must submit an annual statement of qualifications and performance data.

Discretionary Purchases: The Authority may purchase commodities or services from small business concerns or State-certified Minority or Women-Owned Business Enterprises, or commodities or technology that are recycled or remanufactured, in an amount not exceeding fifty thousand dollars without a formal competitive process.

Single Source: The Authority's Board of Directors may authorize the award of a contract on other than a competitive basis, even though two or more firms can supply the required service,

good, or material, provided that the Authority determines that either: (a) one particular firm has unique knowledge or expertise with respect to the required service, good or material rendering the use of competitive procedures impractical; or (b) other material or substantial reasons exist for awarding the contract on other than a competitive basis. For each such procurement, a written record will be created setting forth the methods used to identify the selected contractor and the basis for concluding the single source procurement was in the best interests of the Authority.

Sole Source: When there is one source for a required service, good or material, the Authority's Board of Directors may the authorize the award of a contract for that service, good or material on other than a competitive basis.

Miscellaneous Exempt Contracts: Other types of goods or services for which a competitive procurement process is impractical may be awarded on other than a competitive basis. Such exempt contacts may include: tuition and other expenses incurred for employee training; services provided by monopolies, utilities and hotels; transportation services; contracts for computer or telephone hardware, software or services where current Authority license or use restrictions render competition impractical; and contracts for the completion of existing contracts that have been the subject of contractor default, termination or the exercise of the owner's right to do work. Miscellaneous Exempt Contracts may be awarded without Board approval if less than twenty-five thousand dollars (\$25,000), in accordance with the Authority's By-Laws.

Conformance with Applicable Law: Procurements made pursuant to this policy (including, without limitation, the exclusions and exemptions therefrom) will be at all times construed in conformance with applicable laws, as such may be amended from time-to-time. If the thresholds, exemptions (such as "professional services" as defined by statute), processes, or standards of this policy are ever in conflict with or exceed the boundaries and requirements of applicable law, the then applicable law shall be deemed to govern and apply. Where exemptions from bidding are contemplated by applicable law but are not specifically mentioned in the policy, they will automatically be deemed incorporated herein. This policy will not be read to be more restrictive than as provided by applicable law.

IV. CONTRACT PROVISIONS

All contracts in excess of \$5,000 shall be in writing, and must be approved and executed by the Chairman, Executive Director or such other person as specifically designated by the Board, as provided in the Metroplex By-Laws or an applicable Metroplex Board resolution.

1. W-9 Form must be completed for all individuals providing Professional Services to Metroplex.
2. Contracts shall detail:
 - i) The provided goods or scope of services to be performed;
 - ii) The cost of the goods or the compensation for the services;
 - iii) The timing of payment;
 - iv) The preconditions for receiving payment from Metroplex;
 - v) Procedures for termination of the contract; and
 - vi) Any other provisions the Board deems necessary or appropriate for each particular contract.

In addition, if performance of a particular procurement contract will require the use of subcontractors, the contract shall require the contractor to act affirmatively to secure participation by Minority Business Enterprises and to report such efforts to Metroplex pursuant to Article 15-A of the Executive Law.

V. PROMOTION OF MINORITY AND WOMEN BUSINESS ENTERPRISES

It is the goal of Metroplex to award a fair share of procurement contracts to Minority Business Enterprises. Metroplex also seeks to award contracts to those vendors who have evidenced compliance with the laws of the State of New York prohibiting discrimination in employment. Metroplex recognizes that awarding contracts to those firms who have demonstrated that they do not discriminate in employment may achieve this goal.

1. For all procurement contracts the cost of which is expected to exceed \$25,000, the following shall apply:
 - i) Bidders shall submit to Metroplex data regarding the race and sex of their partners, members, and employees by job category.
 - ii) All bidders with fifty or more employees shall submit to Metroplex a copy of their affirmative action plan. The Affirmative Action Officer or other designated officer or employee shall review such plan. If Metroplex deems a bidder's plan unacceptable, Metroplex shall reject the bidder's bid regardless of bid placement.
 - iii) Bidders with less than fifty employees shall submit a statement of commitment to equal employment opportunity and affirmative action executed by the bidder.
 - iv) Bidders shall be encouraged to include with their bids proposals to demonstrate that their selection will achieve the goals of this paragraph, such as proposals for joint ventures with Minority Business Enterprises.

2. The Affirmative Action Officer (or a designated officer or employee of Metroplex) shall prepare and maintain a list of Minority Business Enterprises by area of expertise. When soliciting bids and proposals, qualified firms on the list shall be included in the pool of firms receiving the bid solicitation. When the Affirmative Action Officer is unable to identify a Minority Business Enterprise in the area of expertise, he shall advise the individual soliciting bids and proposals in writing.
3. In selecting a bidder where a Minority Business Enterprises has been identified, due consideration shall be given to how such bidder would comply with Metroplex's goals.
4. In selecting a bid with no Minority Business Enterprises bidders, after determining that bidders are fully qualified and that goods or services are fairly and reasonably priced, the individual awarding the contract shall consider the materials submitted in paragraph (1) above, with preference given to the bidder who best complies with Metroplex's goals for minority participation and nondiscrimination.

VI. BONDS AND NOTES

1. It is the Authority's determination that, unless otherwise excepted by law or resolution of the Authority, the vendors of procurement services as may be required to complete a debt issuance transaction, other than services of an underwriter or placement agent required in connection with the sale of bonds and notes by the Authority, must be selected subject to the provisions of §2665 of the New York Public Authorities Law (the "Act") and these Procurement Guidelines.
2. For the purposes of these Guidelines, the services required to complete a debt issuance shall include but are not limited to, the services of bond counsel, financial advisor and trustee.
3. Nothing in these Guidelines shall be deemed to require the Authority to initiate a special separate selection process for the procurement of any services in connection with the issuance of debt:
 - (a) If a vendor has been previously selected to provide such services generally to the Authority within the prior three (3) years; or
 - (b) If the services to be provided in connection with the issuance of debt are incidental to services being provided by a vendor under a separate contract.

Provided, in either case, that the selection of such vendor was made in full compliance with the provisions of §2665 of the Act and the Procurement Guidelines set forth herein.

4. Every five (5) years, the Authority shall undertake a Request for Qualifications process consistent with these Guidelines for all professional services necessary to complete a debt issuance as outlined in the Authority's Guidelines Governing the Terms and Conditions for the Sale of Bonds and Notes.

VII. REPORTS

On or before March 31 of each year, the Executive Director will prepare and deliver to the Fiscal Audit Committee a report on the status of Metroplex contracts for the prior year including the name of the contracting party, the amount of compensation, a description of the goods and services, and the percentage of such goods or services delivered and paid.