

Tioga County Industrial Development Agency Procurement Policy

SECTION 1: PURPOSE AND AUTHORITY

The purpose of this document is to outline the procurement policy (the "Policy") of the Tioga County Industrial Development Agency (the "Agency") applicable to procurement of goods and services paid for by the Agency for its own use and benefit. The Policy requires that goods and services must be procured by the Agency in such a manner so as to assure the prudent and economic use of public funds, 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.

SECTION 2: SECURING GOODS AND SERVICES

Each action taken in connection with each procurement must be supported by documentation. When an award is made to other than the lowest responsible bidder, the determination to make the award must be supported by documentation that justifies the award and sets forth the reasons why the award furthers the purposes of this Policy and provisions of section 104-b of the New York General Municipal Law. In accordance with Chapter 1 of the Laws of 2005, generally referred to as the "Procurement Lobbying Law", the Agency shall implement the provision of such Procurement Lobbying Law for any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of \$15,000.

SECTION 3: METHOD OF PURCHASE

The following method of Purchase will be used when required by this Policy to achieve the highest quality and savings:

Estimated Amount of Purchase

Up to \$5,000

\$5,000-19,999

Method Required

Discretion of the Chairperson to secure best pricing available under prevailing circumstances

3 verbal or written quotations employing reasonable methods to secure best pricing available under prevailing circumstances with

written documentation the process employed to obtain the quotes

\$20,000-49,000

Lowest responsible bidder price based on 3 written/fax quotations in response to a request for proposal unless emergency circumstances dictate otherwise, in which case such circumstances shall be documented in writing

\$50,000and above

Lowest responsible bidder in response to advertisement for sealed bids. The bid which is the most advantageous to the Agency and pursuant to section 103 of the General Municipal Law, except as otherwise permitted by Article 5-A of the General Municipal Law

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.

Documentation

Documentation is required for each action taken in connection with each procurement. Documentation and an explanation are required whenever a contract is awarded to other than the lowest responsible bidder. This documentation will include an explanation of how the award will achieve savings or how the bidder was not acceptable. A determination that the bidder is not acceptable shall be made by the purchaser with the approval of the Finance Committee.

Payment

The Agency will endeavor to pay each qualified vendor within 30 days after receiving: (1) the good or service; and (2) a proper invoice.

MWBE

The Agency will make good faith efforts to procure goods and services from MWBEs.

Procurement Contact

The Chairperson is the authorized contact for all procurements.

SECTION 4: CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS AND QUOTATIONS ARE NOT IN THE BEST INTEREST OF THE AGENCY

Pursuant to Section 104-b (2) (f) of the General Municipal Law, this policy may contain circumstances when, or types of procurement 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 interest of the Agency to solicit quotations or document the basis for not accepting the lowest bid.

Professional and Contracted Services

Professional services or services requiring special or technical skills, 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 and experience is a necessary prerequisite to performance of the services. 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; marketing, advertising and/or 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-package software.

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. The Chairperson or Designee shall obtain a verbal quote, at a minimum, which shall be

documented and shall also include a description of the facts giving rise to the emergency and that it meets the criteria set forth herein. Said documentation may also include the opinions of Counsel regarding the exception from bidding.

Purchases of Secondhand Goods

If alternate proposals are required, the Agency is precluded from purchasing surplus and second-hand goods at auctions or through specific advertising 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.

Sole Source

Defined as a situation when there is only one possible source item 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 not competition available. In this situation, a request for a resolution waiving bidding requirements is required.

Goods or Services Under 5,000

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 interest of the taxpayer. In addition, it is not likely that such minimal contracts would be awarded based on favoritism.

Buy Local

Reasonable preference will be given to making purchases from Tioga County businesses.

SECTION 5: UNINTENTIONAL FAILURE TO COMPLY

The unintentional failure to comply with the provision of Section 104-b of the General Municipal Law shall not be grounds to void action taken or give rise to a cause of action against the Agency or any officer thereof.

SECTION 6: POLICY REVIEW

The statute requires that the Policy must be reviewed by the Agency annually. Any amendments will be approved by the Agency's Board of Directors.