

# CONTRACT PROCEDURE RESOLUTION - GENERAL PROCUREMENT POLICY

## ARTICLE I - GENERAL PROVISIONS

### Section 101. Short Title.

This Authority resolution shall be known and may be referred to as the "Contract Procedure Resolution" or the "Resolution".

### Section 102. Purpose and Intent.

It is the purpose and intent of this Resolution to declare, establish, and codify the policies and procedures of the Authority with respect to the bidding, authorization, award, and execution of the Contracts and commitments entered into, and the expenditures made by the Authority. It is hereby declared by the Authority, as a matter of public record, that no Member, Officer, agent, or employee of the Authority has the power in any way to contract for, or to commit the Authority, or to make an expenditure of Authority funds with respect to any Contract as defined in this Resolution, except in the manner and to the extent set forth in this Resolution, and that the Authority will not be bound by any such Contract, commitment, or expenditure made in violation of the terms of this Resolution unless such Contract, commitment, or expenditure is ratified by an affirmative express action in accordance with the applicable provisions of this Resolution.

### Section 103. Definition of Terms.

Whenever used in this Resolution, the following terms shall have the following meanings, unless a different meaning clearly appears intended from the context:

- (a) Originating Division. The term "Originating Division", with respect to any Contract to which the Authority is a party, means the division of the Authority, the department of the Authority of which the division is a part, or the office of the Authority that is assigned responsibility for requesting services and handling the administration of such resulting Contract.
- (b) Authority. The term "Authority" means the New York City Housing Authority. Whenever the words "approved by the Authority", "authorized by the Authority", "required by the Authority", "ratified by the Authority", or words of like or similar import are used, they shall refer, unless the context clearly denotes otherwise, to an action taken by, or to be taken by, the Members of the Authority at a meeting duly convened.
- (c) Capital Contract. The term "Capital Contract" means a contract or arrangement utilizing capital funds for physical capital improvements (i.e. demolitions, excavations, construction, alterations, or renovations), which are typically administered by the Authority's Capital Projects Division or their successor (if applicable).
- (d) Change Order. The term "Change Order" means an order, proceed order, direction, or agreement that modifies the nature or amount of the work, materials, supplies, equipment, or services to be performed or furnished under a Contract within the originally defined scope of work for such Contract. The term does not include an order that merely adjusts the time for performance.

(e) Competitive Contract. The term "Competitive Contract" means a Contract required to be procured through the public advertisement of the contracting opportunity and/or inviting/requesting bids from multiple sources, except that such Contract may qualify to be awarded non-competitively in accordance with Section 109(d) (Procurement by Noncompetitive Proposals) or Section 202 (Special Contracts) (e.g., emergency contracts or sole source procurement). Competitive Contracts are procured by (1) Small Purchase Procedures, (2) Sealed Bid Method, or (3) Competitive Proposals, as further described in Section 109 (Procurement Methods) and Section 201 (Competitive Contracts).

The following are NOT Competitive Contracts:

- (1) personal service;
  - (2) expenditures from petty cash;
  - (3) [this subsection is intentionally omitted];
  - (4) Contracts for purchase or sale of real property or a leasehold or any other interest therein;
  - (5) agreements, commitments, of acts whereby the Authority is committed to assist or does assist a resident of the site of a Development to remove from the site and to relocate elsewhere;
  - (6) claim settlements;
  - (7) Change Orders;
  - (8) utility Contracts with regulated providers;
  - (9) leases by the Authority of residential space within developments; and
  - (10) purchases or leases of personal property from owners of site parcels when necessary to the continued operation of the building in which the personal property exists.
- (f) Construction Manager ("CM"). The term "Construction Manager" or "CM" means a private entity that is hired by the Authority to provide pre-construction, construction, construction management and other related services on a requirements basis for various construction projects. The specific construction projects for which services are to be required from time to time during the term of the CM Contract will be identified by the Authority and transmitted to the CM on a task order basis (a "Construction Management Task Order"). The CM is required to enter into and supervise subcontracts for the performance of all required construction work and, prior to entering into such subcontracts, the CM is required to conduct a competitive bid procedure for such subcontracts, and the successful bidder shall be selected by the CM after written approval by the Authority or the General Manager in accordance with this Resolution. The term "Construction Manager" or "CM" does not

include those construction management firms retained as “agent” for NYCHA (e.g., “CMA” firms).

- (g) Contract. The term "Contract" means any agreement, purchase order, act or arrangement whereby the Authority is committed to expend or does expend its funds in return for work, labor, services, personal services, supplies, equipment, materials, insurance, or any other benefit, or any combination of the foregoing, or any other agreement or act whereby the Authority sells, transfers, conveys, leases, assigns, or otherwise gives up any property, right, or benefit of value to the Authority; except, however, that the term "Contract" shall not include:
- (1) contracts for financial or other assistance made with a government;
  - (2) contracts, resolutions, indentures, declarations of trust, or other instruments authorizing or relating to the authorization, issuance, award, and sale of bonds, certificates of indebtedness, notes, or other fiscal obligations of the Authority; and
  - (3) ordinary employment of personnel of the Authority made pursuant to policies and procedures having general application.
- (h) Cost Reimbursement Contract. The term “Cost Reimbursement Contract” means a contractual arrangement where the contractor is reimbursed for his/her allowable costs of performance up to a total estimated amount specified in the Contract. The Contract may provide for the payment of a fee (e.g., a type of profit) in addition to costs.
- (i) Development. The term "Development" means any property owned or operated by the Authority, including the building(s) and site when such building(s) or site, or any part thereof, is being managed by the Authority or is under construction by the Authority. For the purposes of this Resolution, each Development shall be considered a division of the Authority.
- (j) Division Head. The term "Division Head" means the head of a division, department or office of the Authority.
- (k) Exemption Certificate. The term "Exemption Certificate" means a certificate executed by the Chairman or General Manager authorizing, to the extent permitted by this Resolution, waiver of or variance from any provision of this Resolution and setting forth the reasons for such waiver or variance.
- (l) Firm Fixed Price Contract. The term “Firm Fixed Price Contract” means a contractual arrangement where the contractor is paid a firm fixed price for all required work regardless of the contractor’s actual costs of performance.
- (m) Government. The term "Government" means the federal government, any state government, any political subdivision thereof, or any officer, agency, or instrumentality of any of the foregoing, but not including the Authority.

- (n) Member. The term "Member" means an individual appointed by the Mayor to the Authority pursuant to Section 402(3) of the State Public Housing Law ("PHL").
- (o) Officer. The term "Officer" means an Officer or employee of the Authority authorized by the by-laws, this Resolution or any other resolution of the Authority to award, execute, or attest a Contract or to take any action with respect to a Contract.
- (p) Supply Management Division. The term "Supply Management Division," with respect to any Contract to which the Authority is a party, means the division of the Authority, the department of the Authority of which the division is a part, or the office of the Authority that is assigned responsibility for the procurement that is the subject of such Contract.
- (q) Personal Service Contract. The term "Personal Service Contract" means a Contract covering the employment of an individual who will be subject to an employer-employee supervisory relationship that is in turn part of the personnel process subject to civil service rules.
- (r) Purchase Order. The term "Purchase Order" means a Contract, as hereinabove defined, which is evidenced by a purchase requisition on a standard Authority form. Purchase Orders should generally contain information regarding scope of work/service to be provided, price, duration of services, delivery, method of payment, inspection, and acceptance. Additional terms and conditions may be added depending on the nature and complexity of the work requested.

#### Section 104. Conflicts of Interest.

The Authority will maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of Contracts. No employee, Officer or agent of the Authority shall participate in selection, award or administration of a Contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- (a) the employee, Officer or agent,
- (b) any Member or his or her immediate family,
- (c) his or her partner, or
- (d) any organization which employs, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award. The required standards of conduct are set forth in the Authority's Code of Ethics published as Section XI of Chapter I of the Authority's Personnel Manual and supplemented by applicable provisions of Chapter 68 of the Charter of the City of New York.

### Section 105. Procurement Review and Lease versus Purchase.

The Authority will provide for appropriate review of proposed procurements to avoid purchase of unnecessary or duplicative items. Where appropriate, consideration will be given to consolidating or breaking out procurements to obtain a more cost-effective purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and other appropriate analyses will be made to determine the most cost-effective approach.

### Section 106. Procurement Record Keeping.

The Authority will maintain records, in compliance with the Record Retention and Disposal Schedule set forth in Authority Standard Procedure 008:59:2, sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of Contract type, contractor selection or rejection, and the basis for the Contract price.

### Section 107. Protest Procedure.

Any actual or prospective bidder or contractor may protest the solicitation of bids or proposals or the award of a Contract on the grounds that the Authority has substantially failed to follow the standards set forth in the Authority's procurement policies and related procedures. The Authority shall resolve and handle such protests in compliance with Authority Standard Procedure 002:94:1.

### Section 108. Restrictions on Competition.

- (a) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of this Contract Procedure Resolution and the standards of 24 CFR 85.36. Some of the situations considered to be restrictive of competition include but are not limited to:
- (1) Placing unreasonable requirements on firms in order for them to qualify to do business,
  - (2) Requiring unnecessary experience and excessive bonding,
  - (3) Noncompetitive pricing practices between firms or between affiliated companies,
  - (4) Noncompetitive awards to consultants that are on retainer contracts,
  - (5) Organizational conflicts of interest,
  - (6) Specifying only a "brand name" product instead of allowing an "equal" product to be offered and describing the performance of other relevant requirements, and
  - (7) Any arbitrary action in the procurement process.

- (b) The use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, other than those imposed by State licensing laws, is prohibited except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference; provided, however, that geographic location may be a selection criterion in contracts for architectural, engineering and other services if its application leaves an appropriate number of qualified firms to compete for the Contract.

#### Section 109. Methods of Procurement.

As further described below and elsewhere in this Contract Procedure Resolution, Authority procurement will utilize one of the four following methods, except as otherwise provided in this Contract Procedure Resolution: Small Purchase Procedures, Sealed Bid Method, Competitive Proposals or Noncompetitive Proposals.

(a) Procurement by Small Purchase Procedures.

Small Purchase Procedures are those relatively simple and informal procurement methods used in connection with

- (1) Contracts for the purchase of materials or supplies costing not more than \$25,000 in the aggregate,
- (2) Contracts for demolition, excavation, construction, alteration or renovation costing not more than \$50,000 in the aggregate, or
- (3) Contracts for any other type of procurement costing not more than \$100,000 in the aggregate.

If Small Purchase Procedures are used, price or rate quotations will be obtained from an adequate number of qualified sources as provided in paragraphs (d), (e) and (f) of Section 201 of this Contract Procedure Resolution.

(b) Procurement by Sealed Bid Method.

- (1) Use of the Sealed Bid Method involves the public solicitation of bids and the award of a Firm Fixed Price Contract (lump sum or unit price) to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price, subject to the discretion granted to the Authority under Section 151 of the PHL to award a Contract to other than the lowest bidder under the conditions described in PHL §151.
- (2) Section 151 of the PHL requires that Contracts covering demolition, excavation, construction, alteration or renovation work and costing in excess of \$50,000 and Contracts covering the purchase of materials or supplies and costing in excess of \$25,000 shall be procured in accordance with the Sealed Bid Method. While procurement by Sealed Bid Method is required for the above identified contracts, the Sealed Bid Method may also be used if the conditions set forth below apply:

- (A) a complete, adequate and realistic specification or purchase description is available;
  - (B) two or more responsible bidders are willing and able to compete effectively for the business; and
  - (C) the procurement lends itself to a Firm Fixed Price Contract and the selection of the successful bidder can be made principally on the basis of price.
- (3) If sealed bids are used, the following requirements apply:
- (A) the invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of qualified sources, providing them sufficient time to prepare a bid response prior to the date set for opening the bids;
  - (B) the invitation for bids, which will include all specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
  - (C) all bids will be publicly opened at the time and place prescribed in the invitation for bids;
  - (D) a Firm Fixed Price Contract award will be made in writing to the lowest responsive and responsible bidder, with the following provisos:
    - (i) where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest; and
    - (ii) payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually available; and
  - (E) The Authority may reject any or all bids in accordance with applicable laws and regulations.
- (4) In accordance with PHL §151-a (known as the “Wicks Law”), if the Sealed Bid Method is used to procure Contracts involving the erection, construction, reconstruction or alteration of any building or other appurtenance as a part of or in connection with a project (as defined in PHL § 3), for which the entire cost of such work exceeds \$3,000,000, then separate specifications must be prepared for the following three components of work:
- (i) plumbing and gas fitting;
  - (ii) steam heating, hot water heating, ventilating and air conditioning apparatus; and
  - (iii) electric wiring and standard illuminating fixtures.

(5) Where the preparation of separate specifications is not required for Contracts involving erection, construction, reconstruction or alteration of a building under PHL § 151-a, the invitation for bids must require that bidders submit a separate sealed list that names each subcontractor that the bidder will use to perform work on the Contract, and the agreed amount to be paid to each, for:

- (i) plumbing and gas fitting;
- (ii) steam heating, hot water heating, ventilating and air conditioning apparatus; and
- (iii) electric wiring and standard illuminating fixtures.

After the low bid is announced, the sealed list of subcontractors submitted with such low bid shall be opened and the names of such subcontractors shall be announced, and thereafter any change of subcontractor, or agreed upon amount to be paid to each, shall require the approval of the Authority, upon a showing to the Authority of a legitimate construction need for such change, which shall be open to public inspection.

A legitimate construction need shall include, but not be limited to, a change in project specifications, a change in construction material costs, a change to subcontractor status as determined pursuant to Labor Law § 222 or the subcontractor has become otherwise unwilling, unable or unavailable to perform the subcontract. The sealed list of subcontractors submitted by all other bidders shall be returned to such bidders unopened after the Contract award.

(c) Procurement by Competitive Proposals.

The technique of Competitive Proposals is normally conducted with more than one source submitting an offer, and either a Fixed Price Contract or Cost Reimbursement Contract is awarded. It is generally used when conditions are not appropriate for the use of the Sealed Bid Method and procurement will exceed the small purchase threshold. If this method is used, the following requirements apply:

- (1) Requests for proposals ("RFPs") will be publicized, will identify all evaluation factors and their relative importance, and will describe the method to be used for conducting any required technical evaluation of the proposals;
- (2) Any response to publicized RFPs shall be honored to the maximum extent practical;
- (3) Proposals will be solicited from an adequate number of qualified sources; and
- (4) Awards will be made to the responsible firm whose proposal is most advantageous to the program or other Authority need for which the procurement is being made, with price and other factors considered.

(d) Procurement by Noncompetitive Proposals.

Procurement by Noncompetitive Proposals refers to procurement through solicitation of a proposal from only one source or procurement in which competition is determined to be inadequate after solicitation of a number of sources. Procurement by noncompetitive proposals may be used only when the award of a Contract is infeasible under Small Purchase Procedures, Sealed Bid Method or Competitive Proposals and one of the following circumstances applies:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The awarding agency, e.g., HUD, authorizes noncompetitive proposals; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

Section 110. Minority and Women's Business Enterprises.

All appropriate affirmative steps will be taken to assure that small, minority and women's business enterprises are used when possible. Affirmative steps will include:

- (a) Placing qualified small, minority and women's business enterprises on solicitation lists;
- (b) Assuring that small, minority and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small, minority and women's business enterprises;
- (d) Establishing delivery schedules, where the requirements permit, which encourage participation by small, minority and women's business enterprises;
- (e) Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (f) Requiring prime contractors, if subcontracts are to be let, to take the above affirmative steps.

### Section 111. Cost Analysis.

A cost analysis will be made in each procurement to the extent appropriate. The method and degree of analysis will be dependent on the facts surrounding each particular procurement situation, but as a starting point, independent estimates must be made before receiving bids or proposals. A cost analysis will be performed when the offeror is required to submit the elements of estimated cost, e.g., under professional, consulting, and architectural engineering services Contracts. A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements, including contract modifications or Change Orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed Contract price.

### Section 112. Comprehensive Grant Procurement.

The applicable procurement procedures set forth in 24 CFR Part 968, Subparts A and C, will be followed by the Authority in procurement funded under the HUD Comprehensive Grant Program, except as they may be waived by HUD, including the taking of appropriate actions to meet HUD goals for awarding modernization Contracts to minority business enterprises in conformance with Executive Orders 11625 and 12432 and HUD goals for awarding modernization Contracts to women's business enterprises in conformance with Executive Order 12138, and appropriate compliance with wage rate requirements and assurance of completion requirements.

### Section 113. Required Contract Provisions.

All Authority Contracts must contain appropriate provisions covering the following:

- (a) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provision for such sanctions and penalties as may be appropriate. (Applicable to Contracts other than small purchases.)
- (b) Termination for cause and for convenience by the Authority including the manner by which termination will be effected and, where appropriate, the basis for settlement. (Applicable to all Contracts in excess of \$10,000.)
- (c) Compliance with Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60). (Applicable to all construction Contracts awarded in excess of \$10,000 by the Authority and its contractors.)
- (d) Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (Applicable to all Contracts for construction or repair.)

- (e) Compliance with the Davis-Bacon Act (40 U.S.C. 3141 and 3142) as supplemented by Department of Labor regulations (29 CFR Part 5). (Applicable to construction contracts in excess of \$2,000 awarded by the Authority when required by Federal Grant program legislation.)
- (f) Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USCS §§3701 et seq. (formerly at 40 U.S.C. 327-330)) as supplemented by Department of labor regulations (29 CFR Part 5). (Applicable to construction Contracts in excess of \$2,000 and to other Contracts in excess of \$2,500 involving the employment of mechanics or laborers.)
- (g) Notice of applicable HUD or other funding agency requirements and regulations pertaining to reporting.
- (h) Notice of applicable HUD or other funding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under any Contract funded by such agency.
- (i) Notice of applicable HUD or other funding agency requirements and regulations pertaining to copyrights or rights in data.
- (j) Access by the Authority, the contractor (in the case of subcontracts), HUD or other funding agency, the Comptroller General of the United States or any of their duly authorized representatives to any books, documents, papers and records of the contractor which are directly pertinent to the specific Contract containing this provision for the purpose of making audit, examination, excerpts and transcriptions.
- (k) Retention of all required records for three years after the Authority makes final payments and all other pending matters are closed.
- (l) Compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 7401), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 and implementing Environmental Protection Agency regulations (40 CFR Part 15). (Applicable to contracts and subcontracts in excess of \$100,000.)
- (m) Mandatory standards and policies relating to energy efficiency which are contained in New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L.94-163).

#### Section 114. Procurement of A/E Professional Services.

The Authority may use Competitive Proposal procedures for qualification-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. This method, where price is not used as a selection factor, can only be used in procurement of A/E professional services and will not be used to purchase other types of services even though A/E firms are potential candidates to perform such services.

#### Section 115. Bonding.

For all Contracts to be awarded by the Authority for construction or facility improvement work exceeding \$100,000, except as otherwise approved by HUD, the minimum security requirements are as follows:

- (a) A bid guarantee must be furnished by each bidder equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond for 100 percent of the Contract price must be furnished, prior to award, by the contractor whose bid has been accepted. A performance bond is one executed in connection with a Contract to secure fulfillment of all the contractor's obligations under such Contract.
- (c) A payment bond for 100 percent of the Contract price must be furnished, prior to award, by the contractor whose bid has been accepted. A payment bond is one executed in connection with a Contract to assure payment as required by law to all persons supplying labor and material in the execution of the work provided for in the Contract.

Contracts for the performance of routine maintenance or repair work and that are awarded on a requirements basis, where there is no guaranteed minimum quantity to the contractor, shall not be subject to the bonding requirements of this section.

#### Section 116. Professional Service Contracts. [This section is intentionally omitted]

## ARTICLE II - SOLICITATION FOR BIDS

### Section 201. Competitive Contracts.

- (a) In excess of \$100,000. Competitive Contracts covering other than demolition, excavation, construction, alteration or renovation work or the purchase of materials or supplies and costing in excess of \$100,000, in the aggregate, shall be procured by either (i) Sealed Bid Method, or (ii) RFP. All such Competitive Contracts shall be advertised in the City Record at least once not less than 10 days before the date set for the receipt of bids or such lesser time as may be deemed sufficient under the circumstances.
- (b) In excess of \$50,000. Competitive Contracts covering demolition, excavation, construction, alteration or renovation work and costing in excess of \$50,000, in the aggregate, shall be procured in accordance with the Sealed Bid Method and advertised in the City Record at least once not less than 20 days prior to receipt of bids. Competitive Contracts in excess of \$3,000,000, in the aggregate, for erection, construction, reconstruction or alteration of any building shall comply with the Wick's Law.
- (c) In excess of \$25,000. Competitive Contracts covering the purchase of materials or supplies and costing in excess of \$25,000, in the aggregate, shall be made using the Sealed Bid Method and advertised in the City Record at least once not less than 10 days prior to receipt of bids.
- (d) Between \$10,000 and \$25,000/\$50,000/\$100,000. Competitive Contracts covering procurement of the type described in paragraph (a), (b) or (c) above and costing in excess of \$10,000 but not in excess of the minimum amount described in paragraph (a), (b) or (c), respectively, shall be solicited in accordance with one of the following clauses:
- (1) By advertising at least once, at least 10 days (or such lesser time as may be deemed sufficient under the circumstances) prior to the receipt of bids, in the City Record or in a trade or other paper calculated to reach parties interested in bidding; or
  - (2) By oral or written invitation to at least three bona fide prospective bidders, followed by receipt of at least three written bids, subject to the provisions of paragraphs (a) and (b) of Section 202 of this Resolution.
- (e) Between \$5,000 and \$10,000. Competitive Contracts costing in excess of \$5,000 but not in excess of \$10,000, in the aggregate, shall be solicited in accordance with one of the following clauses:
- (1) By advertising at least once, at least 10 days (or such lesser time as may be deemed sufficient under the circumstances) prior to the receipt of bids, in the City Record or in a trade or other paper calculated to reach parties interested in bidding; or

- (2) By oral or written invitation to at least three *bona fide* prospective bidders, followed by receipt of at least three bids, which bids may be oral subject to written confirmation by the bidders or by the Originating Division or the Supply Management Division, all subject to the provisions of paragraphs (a) and (b) of Section 202 of this Resolution.
- (f) Up to \$5,000. No competitive solicitation shall be required for any Contract costing \$5,000 or less, but the Originating Division or the Supply Management Division shall take such steps as are necessary to assure that the Contract is obtained at fair and reasonable price.
- (g) Requirement Purchase Orders. Contracts for the purchase of any material, supply or service that the Authority requires at frequent intervals and for which it is practicable to procure under a single Purchase Order or other form of Contract covering the needs of the Authority for a specified period shall be solicited at least once every five years, except that such Contracts may be solicited at longer intervals if authorized by an Exemption Certificate. The probable cost of the material, supply or service for the period of the Contract shall be estimated by the Originating Division, and Contracts therefor shall be solicited, and the Contract shall be authorized, awarded and executed in accordance with the provisions of this Resolution governing Contracts in the amount of such estimate.

#### Section 202. Special Contracts.

- (a) Emergency Contracts. Where an emergency exists that seriously threatens the public health, welfare, or safety, or seriously and adversely affects a necessary service, or endangers property, or would otherwise cause serious damage to the Authority, including without limitation emergencies arising by reason of fire, flood, earthquake, epidemic, riot, or equipment or structural failure, and there is an immediate and serious need for supplies, services or construction that cannot be met through adherence to the applicable provisions of paragraphs (a), (b) and (c) of Section 109 and Section 201 of this Resolution, the requirements of such provisions may be waived, although the provisions of Section 109 (d) of this Resolution will still apply, if authorized by an Exemption Certificate setting forth in detail the nature of the emergency and the reasons why the bidding requirements of Sections 109 (a), (b) and (c) and 201 of this Resolution cannot be complied with without serious detriment to the Authority or, if such Contract is not in excess of \$25,000, there is prepared or approved by the individual executing the Contract or the letter of award a memorandum setting forth in detail why such action is in the best interest of the Authority; provided, however, that no such Exemption Certificate shall be issued with respect to a competitive contract in excess of \$25,000 unless it is accompanied by an opinion of Counsel to the effect that the emergency is of such nature as to justify noncompliance with the provisions of paragraphs (a), (b) and (c) of Section 109 and Section 201 of this Resolution. Despite the waiver provided for in this subdivision, Contracts shall be solicited as broadly as possible within the confines of the emergency.

- (b) Sole Source Procurement. Where a Competitive Contract has for its purpose the purchase of materials, equipment, supplies, or services which are sold or furnished by only one vendor, the requirements of Section 201 of this Resolution may be waived, but the provisions of Section 109(d) of this Resolution will still apply provided that, as to any such contract in excess of \$5,000, (i) there is issued an Exemption Certificate setting forth the reasons why it is necessary to specify materials, equipment, supplies, or services which can be supplied by only one vendor or, if the specifications are not restrictive, why only one vendor can furnish or supply them or, alternatively, if such Contract is not in excess of \$25,000, (ii) there is prepared or approved by the individual executing the Contract or the letter of award a memorandum setting forth such reasons. No such Exemption Certificate shall be issued with respect to a Competitive Contract in excess of \$25,000 unless it is accompanied by an opinion of Counsel to the effect that the reasons stated in the Exemption Certificate are sufficient to justify noncompliance with the provisions of Section 201 of this Resolution and reflect compliance with Section 109(d) of this Resolution.
- (c) Purchases from a Government or a Vendor to a Government. Purchases of goods or services may be made without competitive bidding through the purchasing officer, department, or agency of a Government. Purchases of goods or services may also be made, without competitive bidding, directly from a vendor who has a contract with a Government for such goods or services and is willing to sell them to the Authority at the same or at a lesser price. Negotiated additional costs on account of Authority shipping or delivery needs shall not affect such a purchase. Consultation with the Law Department is required prior to the purchase of any goods or services from a vendor who has a contract with a Government that is outside the State of New York to ensure that such contract was procured in a manner consistent with applicable New York State and local laws and regulations and in conformity with applicable Federal law and regulations.
- (d) Personal Service Contracts. No competitive procurement is required for Personal Service Contracts.
- (e) Utility Contracts. No competitive bidding shall be required for Contracts for the purchase of utility service, such as gas, electricity, and telephone where such utility service is regulated by, for instance, the New York State Public Service Commission, or any interstate public utility regulated by either the Federal Energy Regulatory Commission or the Federal Communications Commission.
- (f) Products of the Blind and Other Severely Handicapped. All suitable products made by the blind and other severely handicapped may be procured, without competitive bidding, from charitable non-profit-making agencies for the blind and other severely handicapped, organized under the laws of the State of New York and manufacturing such products within such State with the approval of the Commissioner of Standards and Purchase, whenever such products are available at a price determined, as provided in State Finance Law Section 162, to be the fair market price of the product or products so manufactured.

Section 203. Prequalification.

Solicitation for bids may be restricted to prequalified bidders only with respect to the Contracts set forth in, and in accordance with the procedure prescribed in, the resolutions of the Authority authorizing prequalification.

**ARTICLE III - AUTHORIZATION OF CONTRACTS AND AWARDS**

Section 301. Authorization and Funding Requirements.

- (a) Prior Authorization. Except as otherwise provided in paragraph (b) of this section and subject to the provisions of paragraph (c) of this section, each Contract of the Authority shall be authorized by resolution of the Authority approving the same before such Contract or the letter of award therefor is executed unless such Contract involves the expenditure of Authority funds in an amount of \$1,000,000 or less (or the receipt of funds in an amount of \$1,000,000 or less). All Contracts of \$1,000,000 or less shall be approved in accordance with the applicable provisions of Section 1.03(i) of the by-laws and the provisions of any resolution or standard procedure that may be promulgated in furtherance thereof.
- (b) Special Procurement. The following Contracts shall be awarded as described below:
- (1) Each Contract procured through public solicitation using the Sealed Bid Method that involves the expenditure of Authority funds and is to be awarded other than to the lowest responsive, responsible bidder shall be authorized by resolution of the Authority approved by unanimous vote of the Members if such Contract covers the purchase of materials or supplies costing in excess of \$25,000, in the aggregate, or covers demolition, excavation, construction, alteration or renovation work costing in excess of \$50,000 in the aggregate.
  - (2) Each Contract to be awarded on the basis of a sole source procurement (including where only one bid is received in response to a public solicitation using the Sealed Bid Method), or a procurement that has been the subject of a protest covered by the provisions of Section 107 of this Contract Procedure Resolution, shall be authorized by resolution of the Authority approving the same before such Contract or the letter of award therefor is executed unless such Contract involves the expenditure of Authority funds in an amount of \$100,000 or less.
  - (3) Each construction management subcontract to be awarded by a CM where the CM has received less than three (3) sealed bids, shall be authorized by resolution of the Authority approving the same before such subcontract or the letter of award therefor is approved for issuance by the General Manager or his or her designee. The General Manager or his or her designee must submit to the Members supporting documentation to justify the award of the subcontract including, but not limited to, the necessity and criticality of award of the work to be covered by the subcontract.

- (4) Each construction management subcontract where the variance between the cost estimate and the bid amount is greater than 15%, shall be authorized by resolution of the Authority approving the same before such subcontract or the letter of award therefor is approved for issuance by the General Manager or his or her designee. The General Manager or his or her designee must submit to the Members supporting documentation to justify the award of the subcontract including, but not limited to: (i) the reason for the variance; and (ii) the necessity and criticality of award of the work to be covered by the subcontract.
- (5) Each construction management subcontract to be awarded by a CM in amount greater than \$1,000,000, shall be authorized by resolution of the Authority approving the same before such subcontract or the letter of award therefore is approved for issuance by the General Manager or his or her designee. The General Manager or his or her designee must submit to the Members supporting documentation to justify the award of the subcontract including, but not limited to, the necessity and criticality of award of the work to be covered by the subcontract.
- (c) Funding Source. Before any Contract of the Authority involving the expenditure of Authority funds or any letter of award therefor may be executed, the Officer or employee executing such Contract or letter of award must comply with such procedures as are established from time to time by the General Manager, by the Executive Vice President for Finance or by resolution of the Authority, for confirming that a budget has been adopted by the Authority containing funds sufficient to meet the expenditures contemplated in such Contract or for confirming that such expenditures can otherwise be appropriately funded out of an available operating reserve.
- (d) Monthly Reports. The General Manager or the Executive Vice President for Finance shall provide to the Members of the Authority, as a document distributed as part of the calendar for a meeting of the Authority, a monthly report listing all Contracts involving the expenditure of Authority funds in excess of \$15,000 and not requiring prior authorization by resolution of the Authority that have been awarded or executed on behalf of the Authority since the last such periodic report as reflected in the purchasing module of the Authority's Financial Management System (FMS). Each Contract, including each purchase order, awarded or executed on behalf of the Authority in whatever amount shall be promptly entered into the FMS purchasing module by the department or office responsible for the procurement of such Contract.

#### Section 302. Approval of Government.

Whenever, pursuant to any law or to the provisions of any Contract, agreement, bulletin, rule or regulation, the Authority is required to obtain the prior approval of any government to the award or execution of a Contract, the Authority will not authorize, nor shall any Officer of the Authority authorize, award, or execute such Contract unless and until the Originating Division obtains such approval; provided, however, that the Authority may authorize such Contract prior to such approval if the resolution authorizing the Contract expressly states that such resolution is made subject to such approval.

### Section 303. Award.

Each Contract awarded by competitive bidding shall be awarded to the lowest responsive, responsible bidder, except as follows or as otherwise provided by this Resolution or applicable statute or regulation:

- (a) In the case of any Contract covering the purchase of materials or supplies costing in excess of \$25,000, in the aggregate, or covering demolition, excavation, construction, alteration or renovation work costing in excess of \$50,000, in the aggregate, all bids may be rejected by a majority vote of the Members or an award may be made to other than the lowest responsive, responsible bidder by unanimous vote of the Members.
- (b) In the case of all other Contracts, all bids may be rejected or an award may be made to other than the lowest responsive, responsible bidder if such award or rejection is authorized by majority vote of the Members or if (i) in the case of an award there is prepared or approved by the individual executing the letter of award a memorandum setting forth in detail why such award is in the best interest of the Authority, or (ii) in the case of a rejection there is prepared or approved by an individual who would be authorized to execute a letter of award a memorandum setting forth in detail why such rejection is in the best interest of the Authority.
- (c) As examples of the circumstances in which Contracts could be awarded to a bidder other than the apparent lowest responsive, responsible bidder as described in the provisions of paragraph (a) or (b) of this Section 303, which reflect the provisions of PHL § 151, a Contract may be awarded to a bidder other than the apparent lowest responsive, responsible bidder when (i) the Authority's Office of the Inspector General or any federal, state or local government, agency or instrumentality is conducting an investigation relating to any matter that may bear upon the responsibility of such low bidder and the Authority determines that following the procedures for making a determination of non-responsibility under Authority Standard Procedure 002:94:1 would be impracticable or undesirable under the circumstances, or (ii) pursuant to applicable law or court order, the Authority is permitted or required to implement a preference system or otherwise utilize criteria that do not fall within selection criteria described or referenced in this Contract Procedure Resolution.
- (d) In the event that identical low bids are submitted under the Sealed Bid Method by two or more responsive, responsible bidders, the Contract shall be awarded to one of such bidders as follows:
  - (1) When such low bids do not exceed \$1,000,000, the head of the Supply Management Division or his or her designee may either:
    - (A) Select the successful bidder by the drawing of lots, giving the bidders involved adequate notice and opportunity to attend the drawing, and make the award thereto as otherwise provided in this Resolution, or

- (B) Select one of such low bidders and make the award to such bidder after reporting in writing to the General Manager or his or her designee the reasons why such an award would be in the best interest of the Authority and obtaining approval from such party prior to awarding or executing the Contract as otherwise provided in this Resolution.
- (2) When such low bids exceed \$1,000,000, the head of the Supply Management Division or his or her designee may either:
- (A) Draw lots among the tie bidders, giving the bidders involved adequate notice and opportunity to attend the drawing, and thereafter report the result of such drawing to the Members of the Authority for their action by Authority resolution, or
- (B) Recommend to the Members for their action by Authority resolution the selection of one of the low bidders for award as being in the best interest of the Authority, stating the reasons for such recommendation.

#### **ARTICLE IV - EXECUTION OF CONTRACTS AND AWARDS**

##### **Section 401 Authorization Required.**

No Officer or employee of the Authority shall execute any Contract or the letter of award therefor unless the applicable provisions of Section 301 have been fully complied with (e.g., prior approval by the General Manager or by a resolution of the Authority, if required, and identification of funding source) or unless there is included in such Contract or letter of award a provision to the effect that such Contract is subject to compliance with such provisions of Section 301 as have not been met at the time of execution (e.g., subject to approval by the General Manager or an authorizing resolution of the Authority or subject to identification of the funding source). All other provisions of this Article IV are subject to the provisions of this Section 401. Any delegation of power or authority and any designation of an Officer or employee as a person authorized to execute certain Contracts, pursuant to the provisions of this Article IV, shall be in writing and shall be filed with the Secretary.

##### **Section 402. Power to Execute All Contracts**

The Chair, the General Manager, the Executive Vice President for Legal Affairs, and, if designated by the Chair, any other Executive Vice President or other employee, are hereby each severally authorized and empowered to execute all Contracts of the Authority and the letters of awards therefor.

Section 402A. Delegation of Powers.

The Chair, the Executive Vice President for Legal Affairs and, unless the Members disapprove by resolution, the General Manager, are hereby each authorized to delegate to any other Officer or employee of the Authority any power that the delegating party is authorized to exercise in this Resolution with respect to the procurement of any Contract. Such delegations of power shall be made in accordance with this Resolution, the by-laws, or any applicable policy or procedure of the Authority, and shall be identified in writing either within this Resolution or in the "Delegation Record" maintained by the Office of the Secretary.

[Sections 403 through 407 are intentionally omitted]

Section 408. Attestation.

All Contracts of the Authority which are required to be attested may be attested by the Secretary or any Assistant Secretary.

**ARTICLE V - SPECIAL PROVISIONS RELATING TO PARTICULAR CONTRACTS**

Section 501. Change Orders.

(a) Authorization and Execution

- (1) A Change Order for any Contract other than a Capital Contract, shall be authorized by resolution of the Authority and executed by the Chair, the General Manager, or their designee if:
  - (A) The original Contract required authorization by resolution of the Authority (or the original Contract, as amended, has been authorized by resolution of the Authority) and the Change Order (together with the aggregate of prior Change Orders that have not been authorized by resolution of the Authority) involves a substantial change in the Contract, or
  - (B) the original Contract did not require authorization by resolution of the Authority, and the Change Order (together with the aggregate of prior Change Orders that have not been authorized by resolution of the Authority) involves a substantial change in the Contract or brings the aggregate value of the original Contract and all Change Orders that have not been authorized by resolution of the Authority to an amount that would have required authorization by resolution of the Authority if it had been reflected in the original Contract.
- (2) A Change Order for any Contract other than a Capital Contract shall be deemed to involve a substantial change if it changes the compensation payable under the Contract by the applicable amount set forth below:

<u>Original Contract Price</u>	<u>Amount of Change</u>
\$250,000 or less	\$10,000 or more
\$250,001 to \$1,000,000	\$25,000 or more
Over \$1,000,000	\$50,000 or more

(3) A Change Order for any Capital Contract may be authorized and executed by the Chairman, the General Manager or their designee, without prior authorization by resolution of the Authority, if:

(A) the original Capital Contract required authorization by resolution of the Authority (or the original Capital Contract as amended has been authorized by resolution of the Authority) and the amount of the Change Order, together with the aggregate of all previously executed Change Orders, does not exceed in value the greater of the following amounts:

- (i) \$50,000,
- (ii) 10% of the original Contract amount, including any original “not to exceed” amount,” or
- (iii) any higher amount that has been authorized by resolution of the Authority, or

(B) the original Capital Contract was not required to be authorized by resolution of the Authority and the amount of the Change Order, together with the aggregate of all previously executed Change Orders, does not exceed in value the greater of the following amounts:

- (i) \$50,000,
- (ii) 10% of the original Contract amount, including any original “not to exceed” amount,” or
- (iii) an amount which, if it had been included in the original Capital Contract, would have required the original Capital Contract to be authorized by resolution of the Authority.

(C) On a Construction Management Task Order, the amount of the Change Order, together with the aggregate of all previously executed Change Orders, does not exceed in value the greater of the following amounts:

- (i) \$250,000 (for any individual change order), or
- (ii) 20% of the construction allowance for “Extra Work” (defined as work that is a change in scope), or
- (iii) 25% of the construction allowance for “Additional Work” (defined as additional units of work at fixed unit prices that were competitively bid).

- (4) Change Orders for Compactors Service Contracts that are not required to be authorized by resolution of the Authority, as provided above, may be authorized and executed by the Chair or the General Manager or, if designated by the Chair, the Director of the Borough Management Department for the Borough in which the service is being performed.
- (5) Change Orders for Elevator Service and Maintenance that are not required to be authorized by the Authority, as provided above, may be authorized and executed by the Chair or the General Manager or, if designated by the Chair, the Director of the Technical Services Department.
- (6) Change Orders may be authorized and executed by the Director of Supply Management Division with respect to any Contract that their respective department or division is administering. Such Change Orders must be in accordance with the amounts set forth in the following columns:

<u>Original Contract Price</u>	<u>Amount of Change</u>
\$5,000 or less	\$2,000 or less
Over \$5,000	\$5,000 or less

- (7) Any other Change Order may be authorized and executed by the Director of Capital Projects in an amount of \$5,000 or less, or by the Chair or General Manager in an amount over \$5,000.
- (b) Approval of Government. Whenever, pursuant to any law or to the provisions of any Contract, agreement, bulletin, rule or regulation, the Authority is required to obtain the prior approval of a government to a Change Order, the Authority will not authorize, nor shall any Officer of the Authority authorize or execute, such Change Order unless and until the Originating Division obtains such approval.
- (c) Emergencies. Where a Change Order would require prior authorization by the Authority pursuant to subdivision (a) of this section, and there is issued an Exemption Certificate, setting forth in detail the existence of an actual emergency that would cause serious detriment to the Authority or to life or property if the issuance of the Change Order were deferred until such authorization were obtained, such Change Order may be issued and executed without such authorization, but the Originating Division shall report each such Change Order to the Authority at its next meeting.
- (d) Capital Projects Report. Within 30 days following the end of each Calendar Quarter, the Executive Vice President for Capital Projects shall provide the Members and the General Manager with a Capital Project Report, covering the status of each active capital projects contract as of the end of such Quarter, including the cumulative total dollar amount of Change Orders executed with respect to such contract by category (e.g., field conditions, errors and omissions, and scope changes).

## Section 502. Insurance

- (a) Bidding. Except as otherwise provided in this section, all policies of insurance shall be purchased in accordance with the provisions of Section 109 of this Resolution. To the extent that such procurement appears to be in the Authority's best interest as approved by resolution of the Authority, liability insurance policies may be purchased from the Housing Authority Risk Retention Group on a non-competitive procurement basis. Where it is necessary to procure insurance coverage before bids can be obtained and acted upon, the Chair, General Manager or Executive Vice President for Finance may, in writing, direct the placement of temporary insurance to remain in effect until bids can be obtained and acted upon.
- (b) Authorization. No policy of insurance, other than temporary insurance, which requires the payment of premiums during the term thereof in the amount of \$100,000 or more shall be ordered unless such order shall have been authorized by resolution of the Authority; provided, however, that upon the issuance of an Exemption Certificate setting forth the reasons why it is the best interest of the Authority to issue the order for such policy prior to authorization by Resolution of the Authority, an order may be issued without such authorization. Any such order shall be reported by the General Manager or, if designated, the Executive Vice President for Finance, to the Authority at its next meeting.

## Section 503. Petty Cash Funds.

- (a) Establishment. There shall be established and maintained such petty cash fund accounts, in such amounts as shall be determined by the General Manager or, if designated, the Executive Vice President for Finance or the Controller, to be necessary for efficient operation, and subject to the approval of the department head; provided, that no such account shall exceed the sum of \$2,500, unless a larger amount is approved by the General Manager or the Authority pursuant to the provisions of this Resolution.
- (b) Purpose. Funds in the petty cash fund accounts shall be disbursed only for:
- (1) the purchase of materials, supplies, or services costing \$200 or less;
  - (2) the purchase or procurement of such other materials, supplies, or services as to which it is impracticable to enter into a written Contract and for which it is customary or desirable to pay immediately in cash, including but not limited to postage supplies, travel expenses, supper allowances, notarial fees and commissions, and freight charges.
- (c) Authorization of Expenditures. Disbursements shall be made from any petty cash fund account only on written requisition therefor by a Division Head countersigned as follows:
- (1) if the requisition is for a sum of \$200, no countersignature shall be necessary;
  - (2) if the requisition is for a sum in excess of \$200 but not in excess of \$500, it shall be countersigned by the Chairman, General Manager, or their designee if it is drawn against a petty cash fund account existing at other than an operating development, or

by the Chairman, General Manager, or their designee if it is drawn against a petty cash fund account existing at an operating development;

- (3) if the requisition is for a sum in excess of \$500, it shall be countersigned by the Chairman or General Manager.

Expenditures from petty cash fund accounts may be made pursuant to this section without further authorization or ratification by the Authority.

Section 504. Certificates for Payment. [This section is intentionally omitted]

Section 505. Contracts for Utility Services.

- (a) Gas and Electric Service. Any general arrangement hereafter made with a utility company for supplying gas or electric service to the Authority at other than appropriate scheduled and filed rates shall be subject to approval by the Authority, and the Contract, application, or other instrument initiating or embodying such arrangement shall be executed by the Chairman or General Manager. Orders or applications for furnishing gas or electricity to specific locations, in accordance with scheduled and filed rates or, as the case may be, in accordance with such approved general arrangement, may be issued and executed, without further authorization by the Authority, by the Chairman, General Manager, or their designee.
- (b) Telephone Service. Application for telephone service and telephonic installations at the usual rates applicable therefor may be made in writing by the Director of General Services without further authorization by the Authority. Such application shall be made upon requisition by the Originating Division desiring the service or installation, provided that the Director of General Services is satisfied that the requisition is necessary or desirable. In the event of any disagreement between the Originating Division and the Director of General Services as to a requisition for telephone service, the matter shall be referred to the General Manager, whose decision thereon shall be final.

Section 506. Open Contracts

When any Contract of the Authority which has been duly entered into pursuant to the provisions of this Resolution calls for the delivery or furnishing of materials, supplies, or services in an amount which is left unspecified or is merely estimated, and the precise amount is to be determined by the needs of the Authority during the term of the Contract, orders or requisitions to the contractor to deliver or furnish particular amounts of materials, supplies, or service at particular times pursuant to and in accordance with the terms of the Contract may be issued, without further authorization by the Authority, by the head of the Originating Division or by the head of the division which is to receive such materials, supplies, or service, or by any officer of the Authority designated by either of them.

Section 507. Contract Administrative Determinations.

- (a) Delegation of Powers. Whenever, in any Contract of the Authority duly entered into pursuant to the provisions of this Resolution, there is a provision to the effect that the

Authority or any Officer of the Authority may or shall take some action with respect to the administration of the Contract, including but not limited to:

- (1) the issuance of a notice, order or instruction;
- (2) the making of a demand or decision;
- (3) the issuance of an approval of work, materials, supplies, equipment, samples, plans, or drawings; or
- (4) a decision on a claim;

such action may be taken on behalf of the Authority, without further authorization by the Authority, by the Chairman, General Manager, the Executive Vice President for Legal Affairs, or, if designated, the Executive Vice President to whom the head of the Originating Division directly or indirectly reports, or head of the Originating Division, in addition to such Officer, if any, as may be authorized by the Contract to take such action, except as otherwise provided in subdivision (b) of this section.

(b) Non-Delegated Powers. The provisions of subdivision (a) of this section shall not apply in the following cases:

- (1) Where the provision of the Contract involved expressly or by necessary implication requires that the action be taken solely by the Members of the Authority, or by the Chair, or by the General Manager;
- (2) Where the action involves the approval of the basic design of a Development or of any substantial modification thereof;
- (3) Where the action constitutes or initiates a Change Order, in which case it shall be subject to the provisions of section 501 of this Resolution.

#### Section 508. Purchase or Lease of Personal Property from Owners of Site Parcels.

Whenever the Authority acquires, by purchase or condemnation, a parcel of improved real property in which is contained personal property belonging to and not abandoned by the former owner or the occupant of such parcel, the General Manager may make a determination that it is necessary for the Authority to purchase or lease such personal property in order to continue to operate efficiently the building in which such personal property exists, and, upon making such determination, the General Manager, without further authorization by the Authority, may arrange to purchase or lease such personal property at not more than the fair market value thereof. The Executive Vice President for Finance, or the Controller if so designated, is hereby authorized to pay to the owner of such personal property, upon receipt of such evidence of title and such documents of sale or lease as shall be satisfactory to the Executive Vice President for Legal Affairs, the amount fixed by the General Manager for such purchase or lease.

Section 509. Commitments for Assistance to Site Occupants.

Commitments and expenditures for rendering of financial assistance and for payment of finders' fees with respect to residents and business or commercial occupants of Development sites shall be governed by the provisions of other resolutions of the Authority.

Section 510. Washing Machine Contracts. [This section is intentionally omitted]

Section 511. Contracts for Sale of Salvage Prior to Demolition.

Contracts for the sale of salvage from buildings on Development sites prior to the demolition of such buildings shall be governed by the provisions of Resolution No. 51-3-196.

Section 512. Disposition of Excess, Unusable and Worthless Personal Property.

- (a) The Chairman or General Manager is authorized to establish a Standard Procedure for the disposition of Excess, Unusable and Worthless Personal Property of the Authority.
- (b) For the purposes of this Resolution, Excess, Unusable and Worthless Personal Property shall be defined as follows:
  - (1) "Excess Personal Property" shall mean Authority property other than real property which is not needed at the present location, but may be of use at other locations.
  - (2) "Unusable Personal Property" shall mean Authority property other than real property which has become permanently useless to the Authority through damage, obsolescence, wear or some other cause, and is uneconomical to repair or put back into usable form, but which may have resale value.
  - (3) "Worthless Personal Property" shall mean Unusable Personal Property which has become permanently useless to the Authority and which has no resale or salvage value.

Section 513. Commercial Leases.

Intentionally deleted pursuant to Resolution No.13-10/23-27.

Section 514. Provisions of this Article Controlling.

To the extent that the provisions of this Article V are inconsistent with any other Article of this Resolution or with the provisions or any other resolution, rule, regulation, procedure, or by-law of the Authority, the provisions of this Article V shall be controlling.

## **ARTICLE VI - DUTIES AND RESPONSIBILITIES**

### **Section 601. Purpose of Article VI.**

It is the purpose of this Article VI to set forth certain of the duties and responsibilities of various divisions, division heads, and Officers of the Authority with respect to the enforcement of this Resolution and the approval, authorization, and administration of Contracts. It is not the intention of this Resolution to supersede, amend, or repeal any duty or responsibility, not inconsistent with this Resolution, imposed by any other resolution, rule, regulation, procedure, or by-law of the Authority.

### **Section 602. Originating Division.**

It shall be the duty and responsibility of the Originating Division:

- (a) to initiate the Contract sufficiently in advance of the date when the performance of the Contract is to begin, to permit timely compliance with the provisions of this Resolution;
- (b) to prepare and procure an Exemption Certificate whenever required by this Resolution;
- (c) to the extent directed by the Supply Management Division, obtain bids in the manner required by this Resolution, by-law, or any other applicable resolution or standard procedure;
- (d) to the extent directed by the Supply Management Division, arrange for the publication of advertisements or notices wherever required by this Resolution, by-law, or any other applicable resolution or standard procedure;
- (e) to obtain all approvals of any government when required pursuant to any law or to the provisions of any contract, agreement, bulletin, rule or regulation made with or issued by a government;
- (f) to furnish all copies of Contract documents or any parts thereof or any summaries or tabulations of bids that may be required by a government pursuant to any law or to the provisions of any contract, agreement, bulletin, rule or regulation made with or issued by a government;
- (g) to calendar for Authority action any Contract or matter relating thereto requiring Authority authorization and, in connection therewith, to prepare and submit to the Secretary or General Manager all the supporting data and evidence required by the Authority;
- (h) to submit to Executive Vice President for Legal Affairs for review and approval all Contracts requiring such review and approval pursuant to section 604 of this Resolution.

Section 603. [This section is intentionally omitted.]

Section 604. Executive Vice President for Legal Affairs.

- (a) Approval of General Forms of Contract. The Executive Vice President for Legal Affairs shall approve as to general form all forms of Contract in use by the Authority and all substantial deviations from such forms.
- (b) Approval of Specific Contracts. The Executive Vice President for Legal Affairs shall review and approve as to form and execution, by written endorsement on the Contract, each written contract of \$15,000 or more in amount other than:
  - (1) a Change Order;
  - (2) a resident lease;
  - (3) a unilateral application for service or insurance;
  - (4) Purchase Orders unless the Purchase Orders are for an amount of \$25,000 or more. For Purchase Orders of \$25,000 or more the Executive Vice President for Legal Affairs shall only review as to general form prototypes of each commodity group as requested by the Supply Management Division and any significant departure from such prototypes provided, however, that on initiation of a Contract for material or items not previously contracted for, the Executive Vice President for Legal Affairs shall review each such Contract for form.

Section 605. Controller.

- (a) Audit of Procedure. Before making payment of any Contract, the Controller shall satisfy himself that the provisions of this Resolution have been complied with.
- (b) Refusal of Payment. If the Controller finds that any provision of this Resolution has not been complied with, he shall refuse all payment under the Contract and shall notify the Originating Division of his reasons therefor. If the noncompliance can be cured by an Exemption Certificate issued in accordance with the provisions of this Resolution, it shall be the duty of the Originating Division to obtain such Exemption Certificate. If the noncompliance cannot be so cured, and if the Contract is one as to which Member approval is required, the Originating Division shall calendar the Contract for action by the Authority and the Authority shall thereupon take such action with respect thereto as it considers to be to the best interest of the Authority. If the Contract does not require Member approval, the Chairman or General Manager may, in order to prevent inequitable injury, authorize in writing payment of a Contract in whole or in part, despite a noncompliance, where the rights of the Authority are not prejudiced thereby.
- (c) Certificate Before Award.

With respect to Contracts of \$2,000 or more, except for Purchase Orders, the Controller shall certify, prior to award, by written endorsement on the Contract or letter of award that funds are available. Where the funds are provided by a grant from government or private sources, all Contracts shall require approval of the Controller prior to award.

Section 606. Signatory Officers.

No employee or Officer authorized by this Resolution to award, execute, or attest a Contract shall make an award or sign a Contract as executing or attesting officer unless and until he or she is satisfied that the provisions of this Resolution have been fully complied with. No employee or Officer of the Authority is authorized to waive or modify any provision of this Resolution except as expressly set forth in this Resolution.

Section 607. Delegation.

Whenever any provision of this Resolution confers a power upon a director or head of a department, each of such officers is authorized, subject to the written approval of the Chairman or General Manager, to delegate such power, in whole or in part, to any other officer or employee of the Authority designated by him, such designation to be in writing and to be filed in the office of the Secretary.

Section 608 - General Manager

To enhance the efficiency and the control of Authority operations the General Manager may clarify the provisions of the Contract Procedure Resolution by the issuance of a memorandum setting forth the scope, terms, and conditions of such clarification. The memorandum may not contradict the mandates or prohibitions of this Contract Procedure Resolution.

**ARTICLE VII - BID RELEASE BOARD**

Section 701. Establishment of Board.

- (a) There is hereby established a Bid Release Board that will consider applications by bidders to be released from bids submitted to the Authority in compliance with Authority Standard Procedure 002:59:1. In addition, the Bid Release Board will consider and act upon written requests from proposers to be permitted to withdraw proposals submitted in response to Requests for Proposals issued by the Authority. Notwithstanding the foregoing, whenever an application for release from a bid or proposal is made where the amount does not exceed \$10,000, the director of the Supply Management Division is authorized to make a final determination to approve or disapprove the bidder's request for release (which determination must be reflected in a written memorandum, executed by the Director of the Supply Management Division, setting forth the basis for the determination), and such determination shall be final without submission either to the Bid Release Board or to the Members of the Authority.
- (b) The Bid Release Board will consist of the following persons (or their designees): (1) the General Manager, (2) the Executive Vice President for Finance, and (3) the Executive Vice President for Legal Affairs, who will act as Secretary of the Bid Release Board. In any action taken by the Bid Release Board, the action of a majority of the Bid Release Board will constitute the action of the Bid Release Board.

Section 702. Grounds and Procedures.

- (a) The grounds to be considered by the Bid Release Board in determining whether to grant a release to a bidder or a proposer, and the procedures to be followed in making such determination, are set forth in Authority Standard Procedure 002:59:1.
- (b) The sanctions and administrative charges set forth in Authority Standard Procedure 002:59:1 may be imposed upon a bidder or proposer seeking a release from a bid or a proposal, as the case may be.

Section 703. Disposition of Release Requests.

- (a) After the Bid Release Board has made a determination regarding a Release Request with respect to a bid in an amount over \$1,000,000 (or, if \$1,000,000 or less, where award of the Contract is recommended to the next lowest responsive, responsible bidder and such bidder's bid is in an amount of more than \$1,000,000), the director of the Supply Management Division shall calendar the Bid Release Board's determination regarding the Release Request for consideration and disposition by the Members of the Authority. The Resolution prepared by the director of the Supply Management Division may also include his/her recommendation as to whether the Contract should be awarded to the next lowest responsive, responsible bidder or if all other bids should be rejected and new bids should be solicited. In the case of proposals submitted in response to RFPs, submission to the Members for their consideration and disposition is required for a determination regarding a Release Request with respect to a proposal in an amount over \$100,000 (or, if \$100,000 or less, where award of the Contract is recommended to another proposer and such proposer's proposal is in an amount of more than \$100,000).
- (b) Except as provided in Section 703 (a) above, the Bid Release Board's determination regarding a Release Request with respect to a bid in the amount of \$1,000,000 or less (or a proposal in the amount of \$100,000 or less) will be final, and such determination need not be submitted to the Members of the Authority.
- (c) If a Release Request is approved by the Members of the Authority, the Members shall also either approve or disapprove the recommendation of the director of the Supply Management Division that the Contract be awarded to the next lowest responsive, responsible bidder or shall approve or disapprove the recommendation of the director of the Supply Management Division that all the other bids be rejected and that new bids be solicited (any such recommendation may be made either in the resolution regarding the release request or in a separate resolution). In the case of release requests that are not submitted to the Members, the Bid Release Board shall either approve or disapprove the recommendations made by the Director of the Supply Management Division.

## ARTICLE VIII - BOARDS OF RESPONSIBILITY

### Section 801. Establishment of a Board of Responsibility.

- (a) Except as provided in the following sentence, the determination of whether to debar any contractor or prospective contractor from consideration for award of Authority Contracts shall be made in accordance with Authority Standard Procedure 002:94:2 by a Board of Responsibility established pursuant to this Article VIII. The Authority must not award any Authority Contracts to a contractor or individual whose name appears on the General Services Administration Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs.
- (b) A Board of Responsibility established pursuant to this Article VIII shall consist of three persons, who shall be the following persons (or their designees) unless another person must be designated in order for there to be a three person Board of Responsibility: (1) the Executive Vice President for Finance, (2) the General Manager, and (3) if applicable, the Executive Vice President initiating the debarment proceeding pursuant to Authority Standard Procedure 002:94:2. In the event that another person must be designated in order to constitute a Board of Responsibility consisting of three persons (e.g., if the General Manager rather than an Executive Vice President initiates the debarment proceeding, or if the Executive Vice President for Finance initiates the debarment proceeding), the General Manager shall designate another person to sit on the Board of Responsibility. The General Manager, or his or her designee, shall chair all Boards of Responsibility.
- (c) In any action taken by a Board of Responsibility to debar a contractor or prospective contractor, the action of a majority of the Board of Responsibility will constitute the action of the Board of Responsibility.

### Section 802. Grounds and Procedures.

- (a) The grounds for debarment or suspension, and the procedures for initiating debarment proceedings, are set forth in Authority Standard Procedure 002:94:2.
- (b) The Authority may, in debarring a contractor or prospective contractor, impose the sanctions set forth in Authority Standard Procedure 002:94:2.

### Section 803. Submission to Members.

- (a) A Board of Responsibility shall submit its recommendation to the Members of the Authority with respect to the debarment of the contractor or prospective contractor, and the action of the Members thereon shall be final.
- (b) A debarment decision will take effect on the date of the resolution approved by the Members of the Authority. After the debarment decision takes effect, the contractor or prospective contractor shall remain debarred until the debarment period specified in the resolution expires, or until the Members determine that the debarment shall be terminated earlier because of changed circumstances.

- (c) During a period of debarment, a contractor or prospective contractor may submit to the Authority a written request that a finding be made that a change in circumstances has occurred such as to justify termination of the debarment. During the period that the Authority is considering the contractor's or prospective contractor's request, the debarment shall continue. The Members' determination as to whether such a change in circumstances has occurred shall be final.

## **ARTICLE IX - MISCELLANEOUS**

### **Section 901. Rules and Regulations.**

Rules, regulation, procedures, and forms necessary to effectuate the provisions of this Resolution shall be established by the appropriate division or officer of the Authority which is involved, subject, however, to the approval of the Chairman or General Manager.

### **Section 902. Construction with Other Resolutions and with Governmental Requirements.**

To the extent that the provisions of this Resolution are inconsistent with the provisions of any other resolution, or with the provisions of any rule, regulation, procedure, or by-law of the Authority, the provisions of this Resolution shall be controlling. To the extent that the provisions of this Resolution are inconsistent with the provisions of any Contract made between the Authority and a Government, or with any rule, regulation, or bulletin issued by a Government pursuant to and in accordance with such Contract, the provisions of such Contract, rule, regulation, or bulletin, unless waived by such Government, shall be controlling. The conferral of powers upon particular Officers by this Resolution shall not be deemed a withdrawal of similar powers conferred upon any other Officer by any other resolution, by-law, rule, regulation, procedure, or Contract of the Authority, but shall supplement and operate concurrently with the power conferred upon such other Officer.

### **Section 903. Resolutions Repealed.**

Resolution No. 59-11-88I, adopted November 18, 1959, (the former "Contract Procedure Resolution"), and all amendments affecting or relating thereto which have been adopted up to the date of the adoption of this Resolution, are hereby repealed. The repeal of such resolution and the aforesaid amendments thereto shall not affect or impair any Contract heretofore entered into or any heretofore done or any right heretofore accrued under or by virtue of such resolution and amendments, nor shall it revive any resolutions or amendments heretofore repealed.

### **Section 904. Effective Date.**

This Resolution shall take effect immediately.

RESOLUTION RELATING TO THE BIDDING, AUTHORIZATION, AWARD,  
AND EXECUTION OF CONTRACTS, COMMITMENTS  
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**CONTRACT PROCEDURE RESOLUTION 74-6/5-26**

**APPENDIX A**

**LATEST AMENDMENTS TO INDIVIDUAL SECTIONS**

<b>SECTION AMENDED</b>	<b>DATE AMENDED</b>	<b>AMENDING RESOLUTION NUMBER</b>
Table of Contents	09/25/13	13-09/25-09
101	09/25/13	13-09/25-09
102	09/25/13	13-09/25-09
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103 (b)	09/25/13	13-09/25-09
103 (b) (1)	12/29/93	93-12/29-8
103 (c) – (i)	09/25/13	13-09/25-09
103 (j)	07/08/92	92-7/8-29
103 (k)	8/20/08	08-8/20-3
103 (l)	09/25/13	13-09/25-09
103 (n) <sup>1</sup>	02/04/09	09-02/04-04
103 (o) – (p)	09/25/13	13-09/25-09
103 (r)	09/25/13	13-09/25-09
104	11/24/93	93-11/24-34
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107	03/08/95	95-3/8-14
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109 (a)	8/20/08	08-8/20-3
109 (b)	09/25/13	13-09/25-09
109 (c)	09/25/13	13-09/25-09
109 (c) (5) deleted	12/07/11	11-12/7-4
109 (d)	09/25/13	13-09/25-09
111	4/1/09	09-4/1-4
115	8/20/08	08-8/20-3
116–(deleted)	8/20/08	08-8/20-3
201	09/25/13	13-09/25-09
201 (a), (c), (d) – (f)	02/18/98	98-2/18-24
201 (b), (g)	8/20/08	08-8/20-3
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202 (b)	02/18/98	98-2/18-24
202 (c)	8/20/08	08-8/20-3
202 (d)	11/24/93	93-11/24-34
202 (e)	09/25/13	13-09/25-09
202 (f)	12/21/77	77-12/21-2
301 (a) – (b) deleted	02/18/98 deleted 02/04/09	98-2/18-24
301 (c), 301 (d) deleted	11/24/93 deleted 02/04/09	93-11/24-34
301 (b) (2) deleted	12/29/93 deleted 02/04/09	93-12/29-8
301 (b) (5)	8/18/2010	10-08/18-7

<b>SECTION AMENDED</b>	<b>DATE AMENDED</b>	<b>AMENDING RESOLUTION NUMBER</b>
301 (a) – (d)	09/25/13	13-09/25-09
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303 (d)	09/25/13	13-09/25-09
401, 402	09/25/13	13-09/25-09
402A	09/25/13	13-09/25-09
403 – deleted	8/20/08 deleted 09/25/13	08-8/20-3
404 – deleted	11/24/93 deleted 09/25/13	93-11/24-34
405 - deleted	8/20/08 deleted 09/25/13	08-8/20-3
405 (a) – deleted	11/24/93 deleted 09/25/13	93-11/24-34
407 – deleted	10/26/77 deleted 09/25/13	77-10/26-8
407 (a) –deleted	06/25/80 deleted 09/25/13	80-6/25-34
407 (b) – deleted	06/25/80 deleted 09/25/13	80-6/25-34
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501 (a)(3)	09/25/13	13-09/25-09
501 (a)(3)(C)	09/25/13	13-09/25-09
501 (a)(4)	09/25/13	13-09/25-09
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501 (a)(6)	09/25/13	13-09/25-09
501 (b)	09/25/13	13-09/25-09
501 (c)	09/25/13	13-09/25-09
501 (d)	09/25/13	13-09/25-09
502	11/24/93	93-11/24-34
502 (a) – (b)	09/25/13	13-09/25-09
503 (a)	09/25/13	13-09/25-09
503 (b)	06/25/80	80-6/25-34
503 (c), (1), (3)	06/25/80	80-6/25-34
503 (c)(2)	09/25/13	13-09/25-09
504 (a)	06/25/80	90-6/25-34
504-deleted	08/15/80	80-6/25-34
505 (a)	09/25/13	13-09/25-09
505 (b)	09/25/13	13-09/25-09
506	09/25/13	13-09/25-09
507 (a)	09/25/13	13-09/25-09
507 (b)	09/25/13	13-09/25-09
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513	10/23/13	13-10/23-27
514	11/24/93	93-11/24-34
602	09/25/13	13-09/25-09
603 - deleted	09/25/13	13-09/25-09
603 (a) - deleted	03/08/95 deleted 09/25/13	95-3/8-14
603 (b) - deleted	11/24/93 deleted 09/25/13	93-11/24-34

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604	09/25/13	13-09/25-09
604 (b), (4)	06/19/85	85-6/19-2
605 (b)	09/25/13	13-09/25-09
606	09/25/13	13-09/25-09
607	8/20/08	08-8/20-3
608	05/02/84	84-5/2-19
701	03/08/95	95-3/8-14
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701 (b)	09/25/13	13-09/25-09
702	03/08/95	95-3/8-14
703	03/08/95	95-3/8-14
703 (a)	09/25/13	13-09/25-09
703 (b)	09/25/13	13-09/25-09
703 (c)	09/25/13	13-09/25-09
704-deleted	03/08/95	95-3/8-14
705-deleted	03/08/95	95-3/8-14
801	03/08/95	95-3/8-14
802	03/08/95	95-3/8-14
802 (b)	09/25/13	13-09/25-09
803	03/08/95	95-3/8-14
804-deleted	03/08/95	95-3/8-14
805-deleted	03/08/95	95-3/8-14
806-deleted	03/08/95	95-3/8-14

Revised 10/23/13