

New York Business Assistance Corporation Policy on Procurement of Goods and Services

If the New York City Business Assistance Corporation (“NYBAC”) proposes to enter into a contract or agreement for goods or services and will receive funds for this contract or agreement under or through a contract between NYBAC and the City of New York (the “City”), such contract or agreement shall be procured in accordance with the procurement provisions required by the City in the applicable contract between NYBAC and the City.

If NYBAC procures goods or services using funds that are not provided under or through a contract between NYBAC and the City, it shall use such procurement method as is required by the source of funds. If the source of funds does not specify a procurement method to be followed, NYBAC shall use a procurement method similar to a method required under its contracts with the City.

If NYBAC procures goods or services using private funds, it shall procure such goods or services in accordance with the following procedures:

I. SELECTION PROCESS FOR CONTRACTS FOR GOODS AND SERVICES

1. Goods and Services Costing Less Than \$20,000

For procurements of goods and services the value of which is less than \$20,000 in any single fiscal year, no competition is required except that in making purchases below this limit NYBAC staff shall ensure that the price is reasonable. Documentation of such purchases shall identify the contractor from whom the item or services was purchased, a brief description of the item/services purchased, and the amount paid. Contracts for goods and services the value of which is less than \$20,000 in any single fiscal year shall not require approval of the Board of Directors of the Corporation.

2. All Other Goods and Services

a. Contracts for goods and services the value of which is \$20,000 or more in any single fiscal year are to be awarded on a competitive basis to the maximum extent practical, in accordance with the general procedures set forth below; provided, however, that, upon approval of the Board of Directors, payroll, employee benefits, insurance, and banking services may be procured without competition from any party satisfactorily providing related services to the City, a local development corporation or similar not-for-profit entity.

b. For procurements of goods and services the value of which is less than \$100,000, proposals may be solicited from contractors via written notice or via telephone, where the Executive Director determines that the issuance of a written solicitation is impracticable. Where practicable, offers or proposals should be solicited from at least three (3) offerors/proposers.

c. For procurements of goods and services the value of which is greater than \$100,000, offers or proposals shall be solicited by written requests for proposals ("RFPs") or competitive sealed bids. RFPs shall set forth the nature of the goods or services NYBAC is seeking to procure, including specifications where applicable or available, and shall solicit proposed prices, fees, charges or billing rates, where appropriate. RFPs shall contain such other information and shall request from proposers such other information as NYBAC may deem necessary or desirable. RFPs shall be advertised in at least one appropriate periodical at least five business days before proposals are due, and shall be posted on the City's website.

d. Regardless of value, all solicitations for the services of contract employees shall be done by transmission of a written notice or telephone call to at least three contractors, except in the case of contracts entered directly between NYBAC and an individual where there has been a public job posting.

e. In procuring contracts, NYBAC practices should encourage the utilization of small businesses, minority-owned and women-owned businesses whenever practicable.

f. NYBAC may request prospective vendors to submit background information sufficient to perform, at a minimum, a VENDEX inquiry for the purposes of determining the vendor is responsible based upon such criteria as NYBAC may deem appropriate for the procurement.

3. Waiver of Selection Criteria

Notwithstanding any requirement of these Guidelines, contracts may be awarded to persons or firms on a non-competitive basis subject to the approval of the NYBAC Chairperson or his/her designee, without regard to the procedures set forth above, when the NYBAC Chairperson or his/her designee determines that one of the following circumstances exists and determines that it is in the best interest of the Corporation to award on a non-competitive basis:

- i. In the event an emergency or other extraordinary circumstances exist which make competition impracticable or inappropriate;
- ii. Only one source for the goods or services is reasonably available;
- iii. Legal services or other specialized services are required for which a certain person or firm's expertise is unique;
- iv. Information is obtained which indicates that all persons or firms that submitted proposals on a prior NYBAC solicitation or which were to submit proposals are not

qualified, responsive or responsible based upon the appropriate criteria for the project;

- v. In the event that the City of New York (the “City”) or another governmental unit, a local development corporation or similar not-for-profit entity can provide or cause to be provided needed services directly or pursuant to contracts entered into by any such entity, or a present provider of services to such an entity agrees to extend its rates or rate formulas on such services to the Corporation;
- vi. There is a time-sensitive situation where a vendor must be retained quickly because one of the following situations exist, 1) there is a need to respond to a court order or consent decree, 2) funds available from a funding source will be lost, 3) an existing vendor has been terminated, has defaulted, has withdrawn from, or has repudiated a contract, or has become otherwise unavailable, or 4) there is some other compelling need for goods or services that cannot be met in a timely manner through a competitive process;
- vii. There is a limited number of vendors available and able to perform the work;
- viii. There is a compelling need to continue existing services or to purchase goods from a previous supplier for purposes of continuity or compatibility.

If a contract is awarded pursuant to a waiver, the Board of Directors of the Corporation shall be notified prior to contract award.

II. CONTRACTS

For all services, contracts must be executed between NYBAC and the service provider which set forth the terms and conditions for the provision of services. In addition, NYBAC requires the inclusion of the City’s equal opportunity provisions in its contracts.