

**DUTCHESS COUNTY RESOURCE RECOVERY AGENCY
GOODS AND SERVICES PROCUREMENT POLICY**

Adopted May 17, 2018

Purpose and Scope of Policy Statement

This policy statement is intended to further the objective of assuring the prudent and economical use of public monies, facilitating the acquisition of goods and services of maximum quality at the lowest possible cost, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

This policy addresses the legal and procedural requirements for competitive bidding; defines those instances of procurements of goods and services that are not subject to competitive bidding by law, and establishes the alternative procedures to be followed in such instances.

Review and Adoption by the Agency Board

This policy statement shall be reviewed every three years (or more frequently as may be needed) and adopted by resolution of the governing Board of the Dutchess County Resource Recovery Agency (the "Agency"). Included in such adoption resolution, the Agency Board identifies the following Agency employees as responsible for authorizing purchases falling within expense limits established by Agency Board approved budgets:

- Executive Director or designee

All other purchases require approval by the Agency Board.

Further, the Agency Board also designates, by virtue of such resolution, the following Agency employees as responsible for the opening of all competitive bids/proposals received by the Agency:

- Executive Director or designee
- Deputy Executive Director

At least two people shall be present at each opening of all bids/proposals of which one person shall be from the list designated above.

General Requirements

For all procurements, it is important that adequate documentation be provided to demonstrate that the required procedures were followed. In instances where the specified number of verbal or written price quotes has not been obtained, documentation must be provided of a good faith effort to obtain the required number of quotes. For all procurements not subject to competitive

bidding requirements, documentation and justification must be provided for any contract awarded to other than the lowest dollar offeror.

Equal Opportunity Employment and Minority/Women-Owned Business Opportunity Requirements

In awarding contracts for design, construction, services, or materials the Agency shall ensure that all contractors offer employees and applicants for employment equal opportunity without discrimination.

When required, the Agency shall comply with NY Executive Law Sections 312 and 313 regarding equal opportunity for minority groups and women in bid proposals and contracts.

Purchase of Goods and Materials

- Less than or equal to \$20,000 (annually):
 - All purchases of goods and materials expected to cost from \$1.00 (one dollar) to \$20,000 (twenty thousand dollars) must be authorized in advance by the Executive Director and require documentation of price quotes as noted below:
 - Purchases of \$1 - \$5,000 or less – no price quotes or Purchase Order required.
 - Purchases of \$5,001 to \$20,000 – three formal written price quotes and Purchase Order are required.
 - Special exceptions per GML Sect.104-b(2)(f) – The Agency Board may, in its sole discretion, identify specific circumstances when, or types of procurements for which, the solicitation of alternative proposals or quotations will not be in the best interest of the Agency. Such exceptions shall be established by resolution of the Agency Board.
- Greater than \$20,000 (annually):

All purchases of goods and materials greater than \$20,000 (twenty thousand dollars) and not produced or furnished in connection with construction, shall be procured after issuance of a Request for Proposals, with the purchase contract award authorized by a resolution of the Agency Board.

 - Special provisions for standardization – In accordance with GML Sect. 103(5), the Agency Board may, upon the adoption of a resolution by an affirmative vote of at least four members, determine that, for the health, safety and welfare of the People of Dutchess County, and/or for the effectiveness and efficiency of Agency

operations, that standardization of supplies or equipment is necessary with existing supplies or equipment, or with supplies and equipment needed for regional task forces or partnerships, and that specifications may limit the purchase to single brand or trade name. Depending upon price threshold, competitive solicitations are still required even though the product pool is limited. Such a resolution shall contain an explanation of the reasons for its adoption.

Factors that may be considered in determining to standardize on a single brand or trade name include:

- Repair and maintenance costs would be minimized.
 - User personnel training would be facilitated.
 - Supplies or spare parts would be significantly reduced.
 - Modifications to existing equipment would be minimized or made unnecessary.
 - Training requirements for repair and maintenance personnel would be significantly reduced or eliminated.
 - Proper operation of a function or program requires single brand or trade name supplies or equipment to be compatible with existing supplies or equipment.
 - Overall purchase or operational costs would be minimized.
- Special provisions for surplus and second-hand supplies, material or equipment - In accordance with GML Sect. 103(6), surplus and second-hand supplies, material or equipment may be purchased without competitive bidding from the federal government, the state of New York or from any other political subdivision, district or public benefit corporation.
 - Special exceptions per GML Sect.104-b (2)(f) – The Agency Board may, in its sole discretion, identify specific circumstances when, or types of procurements for which, the solicitation of alternative proposals or quotations will not be in the best interest of the Agency. Such exceptions shall be established by resolution of the Agency Board and may be made applicable to procurements larger than \$20,000.
- Purchases through Dutchess County or NYS OGS (Office of General Services) - In accordance with GML Sect. 103(3) the Agency may make purchases of goods, or may contract for services, other than services subject to article eight or nine of the labor law (e.g., those subject to prevailing wage requirements), when available, through Dutchess County. In accordance with GML Sect. 104, the Agency may make purchases of goods (except for printed materials), or contract for some services, through the NYS Office of General Services provided that such purchase exceeds five hundred dollars. However, in the event that the Agency has solicited and received bids for goods or services, no purchase of goods or contract for services can be made through the County or NYS OGS unless such purchase may be made or the contract for such services may be entered into upon the same terms, conditions and specifications at a lower price through the County or NYS OGS.

- Further, purchases using terms and prices from contracts, Requests for Proposals (RFPs) and bids competitively let by other NYS Counties and/or public authorities may be used provided that the original bid/proposal award is less than one year old, the vendor agrees, and prior to such purchase the Agency's Counsel has reviewed the same and advised the Agency Board accordingly. All purchases, regardless of their respective dollar amount or value, that use terms and prices from contracts, Requests for Proposals (RFPs) and bids competitively let by other NYS Counties and/or public authorities, shall require specific Agency Board approval prior to said purchase.

Purchase of Services

- Public Works:
 - All Agency public work contracts shall require the contractor to comply with the applicable wage, hour and supplemental provisions of NYS Labor Law section 220.
 - Less than or equal to \$35,000 (thirty-five thousand dollars) annually:
 - Contracts of \$1,000 or less – no price quotes are required, and services may be authorized by a Purchase Order.
 - Contracts from \$1,001 to \$10,000 - three verbal quotes are required and services must be authorized by a Purchase Order.
 - Contracts from \$10,001 to \$35,000 – a written scope of work is to be prepared and three written quotes are required; Services are to be authorized by a contract.
 - Special exceptions per GML Sect.104-b(2)(f) – The Agency Board may, in its sole discretion, identify specific circumstances when, or types of procurements for which, the solicitation of alternative proposals or quotations will not be in the best interest of the Agency. Such exceptions shall be established by resolution of the Agency Board.
 - Greater than \$35,000 (thirty-five thousand dollars) annually:
 - All contracts for services greater than \$35,000 and not produced or furnished in connection with construction, shall be procured after issuance of a Request for Proposals, with the contract award authorized by a resolution of the Agency Board. Wicks Law Requirements – In accordance with GML Sect. 101, for all building projects in excess of \$500,000, the Agency will prepare separate specifications for the following divisions of work; plumbing; HVAC; and electrical. These divisions shall be bid separately, and contracts awarded to the respective low bidders for each division. For bidding projects not in excess of \$500,000, the Agency will require all bidders to submit, in a separate sealed envelope, names of all subcontractors to be utilized to perform these divisions of work and the agreed upon amounts to be paid to each. Subsequent to bid award, no changes to the subcontractors used, or amount paid, will be allowed without the Agency's approval.

- Construction:
 - All contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by resolution of the Agency, and when applicable, shall be issued in compliance with paragraph (e) of subdivision 4 and subdivision 7 of §120-w of the General Municipal Law, General Municipal Law §103 or Article 8 of the Amended and Restated Service Agreement between the Agency and the operator of its Resource Recovery Facility.
- By adoption of the resolution establishing this Procurement Policy, the Agency Board hereby establishes the following special exception:
 - Exception for work to be performed by Contract Operator - From time to time it may be necessary to perform work at a solid waste, materials recovery, recycling or transfer facility in a manner that does not interfere with ongoing operations and/or that calls for a special familiarity with the facility; and/or involves a pilot study or demonstration project of a term no longer than four months. In such instances, the Executive Director or designee may authorize such work to be performed by the independent Operator under contract to the Agency to operate said facility without the solicitation of alternative proposals or quotations otherwise required by this policy.

Professional Services

- For professional services expected to cost less than or equal to \$40,000 (forty thousand dollars) annually:
 - Services of \$1.00 - \$20,000 – may be authorized by Purchase Order or letter agreement which shall reasonably describe scope of work. No price quotes are required.
 - Services of \$20,001 to \$40,000 – may be authorized by letter agreement or formal contract. A detailed written scope of services is to be prepared by Agency and three written quotes from other vendors are required.
- For professional services expected to cost more than \$40,000 (forty thousand dollars) annually:
 - All contracts for services greater than \$40,000 must be procured pursuant to a formal Request for Proposals (RFP) process, with the issuance of an RFP and subsequent contract award authorized by resolutions of the Agency Board.

- Where a professional services contract provides an option for renewal, all provisions for the same may be fully exhausted before the particular service shall be subject to a subsequent Request for Proposals.
- Special exceptions – The Agency Board may, in its sole discretion, identify specific circumstances when, or types of procurements for which, the solicitation of alternative proposals or quotations may not be in the best interest of the Agency, the services provided are proprietary or of a specialized nature, the services involve a pilot study or demonstration project of a term no longer than four months, and/or the services provided are covered exceptions pursuant to General Municipal Law section 103. Such exceptions shall be established by resolution of the Agency Board.

Insurance Requirements for Providers of Services

The Agency shall require insurance coverage from vendors whom provide public works services and/or professional services to the Agency in accordance with the recommendations of the Agency's insurance provider, agent or consultant. However, such insurance coverages shall never be less than what the County of Dutchess may require for similar procurements and contracts. Regardless of the contract amount, if the public works services and/or professional services provided occur at Agency-owned or Agency-contract facilities, the vendors of such services shall be required to maintain adequate workers compensation insurance (or produce a lawful exemption thereto) in accordance with New York State Law and insurance regulations.

Emergency Circumstances

In accordance with General Municipal Law Sect. 103(4), in the event of an Emergency, the above procurement requirements may be waived, and purchases of supplies, material or equipment and/or contracts for public work or services may be authorized by the Executive Director or designee.

General Municipal Law Sect. 103(4) defines “Emergency” as arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of a political subdivision or district therein, require immediate action.

In the event such an Emergency requires the purchase of supplies, material or equipment of less than or equal to \$20,000; or a contract for public works of less than or equal to \$40,000; notification of the Emergency and the resultant procurements shall be made to the Agency Board at its next meeting. Such notification shall provide sufficient documentation to substantiate the existence of an Emergency.

In the event such an Emergency requires the purchase of supplies, material or equipment of greater than \$20,000; or a contract for public works of greater than \$40,000; notification of the Emergency shall be made to the full Agency Board and general legal counsel as soon as is reasonably possible. Such notification shall provide sufficient documentation to substantiate the existence of an Emergency. At the next meeting of the Agency Board,

a resolution will be presented for the Board's consideration to confirm the existence of an Emergency and to ratify the action of the appropriate Agency staff member in authorizing the procurement.

Miscellaneous Exceptions

The following may be obtained outside of the normal purchase order procedures, but still require adequate documentation of the respective expense:

- Employee expenses, reimbursement.
- Petty cash reimbursement.
- Utility bills.
- Subscriptions – magazines or other types of subscription services.
- Intra-Dutchess County governmental expenses.
- Inter-governmental expenses less than \$40,000 annually.

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