

BUFFALO URBAN DEVELOPMENT CORPORATION

PROCUREMENT POLICY

A. Scope and Purpose

Pursuant to Section 2824 of the Public Authorities Law, the Buffalo Urban Development Corporation (“BUDC”) is required to establish and adopt a procurement policy. This Policy shall also be applicable to all procurements undertaken by any existing subsidiary or affiliated organizations of BUDC and such other subsidiaries and affiliates as may hereafter be established by BUDC.

B. Procedures

1. Solicitation Procedures for the Purchase of Commodities, Equipment, Goods or Services.
 - a. Up to \$5,000 per instance – The discretion of the President of BUDC or authorized designee.
 - b. Greater than \$5,000 to \$20,000 per instance – Documented verbal quotations or written/fax/email quotations from at least three vendors.
 - c. Greater than \$20,000 per instance – Written Request for Proposal.
 - d. Notwithstanding the foregoing, if it is reasonably anticipated that cumulative procurements pursuant to paragraphs a or b above will exceed \$50,000 per calendar year for a single vendor, BUDC shall be required to prepare a Written Request for Proposal for such procurements.
2. Exceptions. Alternative proposals or quotations shall not be required for procurements made through or with respect to:
 - a. New York State or Erie County contracts;
 - b. State Finance Law Section 175-b (from agencies for the blind or severely handicapped);
 - c. Correction Law Section 186 (articles manufactured in correctional institutions);
 - d. Emergency Procurements – an emergency exists if the delay caused by soliciting quotes would endanger health, welfare, property or a time-sensitive economic development opportunity. Approval of the President after appropriate consultation with one

or more of the other officers of BUDC is necessary, which shall be documented and shall also include a description of the facts giving rise to the emergency.

- e. Sole Source Procurements – A “sole source” means a situation where (i) there is only one possible source from which to produce goods and/or services available in the marketplace, (ii) no other goods and/or services provide substantially equivalent or similar benefits, and (iii) considering the benefits, the cost to BUDC is reasonable.
- f. Utilities and Affiliate Transactions – The purchase of utilities and inter-affiliate or subsidiary transactions are excepted from alternative proposal/quotation requirements.
- g. Unavailability of three (3) vendors who are able or willing to provide a quote.

3. Basis for the Award of Contracts.

Contracts will be awarded to the lowest responsible dollar offeror who meets the specifications therefor, except in circumstances that BUDC determines justify an award to other than the lowest responsible dollar offeror. In making any such determination, BUDC shall consider relevant factors including, without limitation:

- a. Delivery requirements
- b. Quality requirements
- c. Quantity requirements
- d. Past vendor performance and/or experience
- e. The unavailability of three or more vendors who are able or willing to quote on a procurement.
- f. It may be in the best interests of BUDC to consider only one vendor who has previous expertise with respect to a particular procurement.
- g. Any procurement excepted from the alternative proposal/quotation requirements as set forth in subdivision 2 of this Section B, and the procurement of professional services in Section E of this Policy.

4. Documentation.

- a. A record of all solicitations for alternative proposals or quotations, the response (if applicable), and any determinations pursuant thereto shall be maintained in the procurement file.
- b. For each procurement by BUDC, the President of BUDC or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.
- c. Whenever an award is made to other than the lowest responsible dollar offeror the reasons for doing so shall be set forth in writing and maintained in the procurement file.
- d. Whenever the specified number of quotations cannot or will not be secured, the reasons for this shall be indicated in writing and maintained in the procurement file.

C. Erie County Businesses and Minority & Women Owned Enterprises.

It is the goal of BUDC to provide opportunities for the purchase of goods and services from (i) business enterprises located in Erie County and (ii) certified minority and/or women-owned business enterprises. To that end, BUDC will utilize available lists of M/WBE businesses certified by Erie County and/or State of New York and use its best efforts to solicit bids and proposals from such businesses by notifying them of opportunities to submit proposals and/or bids for goods or services when practical. In addition, where the procurement of a specific good or service is to be accomplished using funds other than the funds of BUDC or its affiliates, BUDC shall comply with all M/WBE goals and other M/WBE requirements applicable to such funding.

D. Effect on Other Procurement Requirements.

Where the procurement of a specific good or service is to be accomplished using funds other than the funds of BUDC and such funding sources specify different or more restrictive procurement requirements than are provided for in this Policy, the procurement requirements of the funding source will supersede the requirements of this Policy.

E. Professional Services.

Contracts for professional services involve the application of specialized expertise, the use of professional judgment, or a high degree of creativity. Professional services include services which require special education and/or training, license to practice or are creative in nature. Examples are: lawyers, doctors, accountants, and engineers. Furthermore, professional service contracts often involve a relationship of personal trust and confidence. Procurement of professional services in an amount up to

\$20,000 is not subject to the solicitation procedures contained in Sections B(1) (a) and (b) of this Policy. Procurement of professional services in an amount greater than \$20,000 shall be made through a Written Request for Proposal.

F. Procurement of Insurance.

Procurement of Insurance Brokerage services is subject to this Policy as a professional service. Notwithstanding the foregoing, actual insurance policies procured are not subject to the requirements of this Policy.

G. Procurement Lobbying.

BUDC shall follow the applicable provisions of the New York Procurement Lobbying Law for any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of \$15,000.

H. Other Reporting Requirements.

Procurements are intended to be made for no greater than the fair market value of the asset procured. In the event circumstances exist in which the acquisition of an asset is made where the contract price to be paid by BUDC exceeds the fair market value of the asset, BUDC shall include in its annual report required by Section 2800(2) of the Public Authorities Law a detailed explanation of the justification for making the purchase without competitive bidding and a certification by the President and Chief Financial Officer of BUDC that they have reviewed the terms of the acquisition and determined that it complies with applicable law and this Policy.

I. Annual Review.

This Policy shall be subject to the annual review and approval of the BUDC Board of Directors.

Adopted: 7/7/2009

Amended: 6/8/2010

Re-Adopted: 3/29/2011