

POLICIES ASSOCIATED WITH EXPENDITURES AND DISBURSEMENTS

PURCHASING POLICIES AND PROCEDURES

The RLDC was created as a not-for-profit corporation, pursuant to Article 14 of the New York Not-for-Profit Corporation Law to carry out its purpose of benefiting the people of the Town of Ramapo by relieving or reducing unemployment; promoting and providing for additional and maximum employment; bettering and maintaining job opportunities; lessen the burden of government and act in the public interest. In general, there are no statutory requirements for local development corporations to competitively bid procurement contracts. While there are no statutory or common law requirements for a local development corporation to make purchases, such as equipment purchases through public bidding, it is the practice in the past and now it will be the formal policy of this LDC to actively solicit competition for such procurements. Whether, competition is solicited pursuant to a formal competitive bidding process or a less formal method such as obtaining proposals or verbal or written quotations, will depend upon the nature of the particular purchase. By promoting the competitive securing of goods and services, the RLDC will assure the prudent and economical use of the RLDC's monies and will facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances. It is also the intention of this Policy to guard against favoritism, improvidence, extravagance, fraud and corruption, and, wherever possible within existing laws, to promote and support local businesses and industry. The implementation of this voluntary purchasing policy will foster a *greater* degree of accountability on the part of the LDC and those involved in the procurement process.

POLICY FOR THE PROCUREMENT OF GOODS, EQUIPMENT AND SERVICES FOR THE RAMAPO LOCAL DEVELOPMENT CORPORATION

The RLDC has hereby formally adopted the following written policies applicable to all purchases of goods, equipment and services, including construction services, by the RLDC Board. This Policy is meant to actively promote competitive procurements of all goods and services as set forth herein. RLDC staff is hereby directed to comply with this Policy and to retain the necessary documentation as required herein to substantiate such compliance.

CONSTRUCTION CONTRACTS

Except as set forth herein, all contracts or orders for work, material or supplies performed or furnished in connection with construction shall be awarded by the RLDC pursuant to a resolution or similar action of the RLDC Board. In any such construction contract, the RLDC may provide a program for the payment of damages for delays and incentive awards in order to encourage timely project completion.

The person whose bid or proposal is accepted shall give security for the faithful performance of the contract as the LDC may require, and may be required to maintain any construction done under the contract for such period as shall be stipulated, all in the manner prescribed and required by this LDC and the sufficiency of such security shall, in addition to the justification and acknowledgment, be

approved by the RLDC's Executive Director. If the person whose bid or proposal has been accepted shall neglect or refuse to accept the contract within five working days after written notice that the contract has been awarded to him on his bid or proposal, or if he/she accepts but does not execute the contract and give proper security, the RLDC shall have the right to declare his/her deposit forfeited.

In case any work shall be abandoned by any contractor, the RLDC may, if it determines that the public interest is thereby served, adopt on behalf of the RLDC any and all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption, if made.

No bid or proposal shall be accepted from or any contract awarded to any person or corporation who is in arrears to the RLDC upon any obligation of the RLDC. Every contract when made and entered into, as herein provided for, shall be executed in duplicate, one copy which shall be held by the RLDC and one copy which shall be delivered to the contractor. The provisions of this section shall supersede any inconsistent provisions of the General Municipal Law or any other general, special or local law or the charter of the RLDC.

PURCHASES OF GOODS, EQUIPMENT AND SERVICES

Competitive Sealed Bids

Except as otherwise expressly provided herein, all purchases of goods, equipment and services by the RLDC involving an expenditure of more than \$25,000.00 and all other such purchase contracts involving an expenditure of more than \$25,000.00 shall be made pursuant to an open competitive bidding process as set forth herein and shall be awarded to the lowest responsible bidder furnishing the required security in the manner provided for by this Procedure. In any case where a responsible bidder's gross price is reducible by an allowance for the value of used machinery, equipment, apparatus or tools to be traded in by the RLDC, the gross price shall be reduced by the amount of such allowance, for the purposes of determining the low bid. In cases where two or more responsible bidders furnishing the required security submit identical bids as to price, the RLDC's Board of Directors may award the contract to any of such bidders. The RLDC reserves its discretion to reject all bids and obtain new bids in the manner provided for in this Procedure. The RLDC shall perform any action it deems necessary and appropriate to promote competition in obtaining bids, proposals or quotes from vendors, proposers or bidders.

For purchases of goods, services or equipment over \$5,000.00 but less than \$25,000.00, the Executive Director or his designate shall obtain three or more written quotes, whenever possible, and shall document and retain those quotes for a reasonable period of time. The RLDC Board shall approve any such contract with a value in excess of \$50,000.

For purchases of goods, services or equipment involving a total purchase price of less than \$5,000.00, the Executive Director or his designate shall, whenever possible, obtain at least three verbal or telephone quotes from different vendors and document the substance of those quotes, and specifics (i.e., vendor name, date, time, contact person, reasons) for those not choosing to quote.

Documentation of quotations is required. For non-recurring small purchases, at levels of less than \$1,000.00, competitive quotes are not required.

Notwithstanding any other provision contained herein to the contrary, the requirement for competitive bidding may be waived upon prior approval of the Executive Director provided that prior to the acceptance of such goods or services, the Executive Director has provided the justification for waiving competitive bidding and the reasonableness of the proposed expenditure.

Construction, Reconstruction and Repairs

Contracts involving construction, reconstruction, maintenance or repair activities otherwise not covered under "Construction Contracts" above shall be subject to the requirements set forth herein for purchase of goods, services and equipment.

PROFESSIONAL SERVICE CONTRACTS

Contracts which require professional methods, character or standards or require a State license to practice, or special skill and training or which may be creative and specialized in nature are considered to be professional service contracts. Such services shall be exempt from the Competitive Sealed Bids and Competitive Negotiations provisions set forth above. The RLDC may procure professional services on a negotiated basis, and may request such information as the Executive Director deems appropriate to select the most qualified firm for a reasonable fee.

REQUEST FOR PROPOSALS AS AN ALTERNATIVE PROCUREMENT PROCESS

Notwithstanding any other provision set forth herein, the RLDC may contract for goods or services, including design, construction and operation services, through a request for proposal procurement process. Any such request for proposal procurement process shall provide for the evaluation of proposals received in response to such request for proposals and the awarding of the contract to the selected proposer on factors other than price. Such factors may include technical merit, proposer qualifications and the proposed business arrangement. The RLDC may make a contract award to any responsible proposer selected pursuant to this provision and may negotiate the terms of the contract with any proposer.

EXECUTION OF CONTRACT OR AGREEMENT

Notwithstanding any other provision set forth herein, no contract, agreement, bid or proposal awarded by the RLDC shall be binding and valid until executed by the parties.

LEASE ARRANGEMENTS

Leases of equipment shall also be awarded after a competitive process. RLDC staff shall obtain formal written quotations or proposals from three or more vendors for any lease involving in excess of \$25,000.00 annually. For leases involving in excess of \$25,000.00 annually, staff shall obtain written quotations or proposals setting forth the particulars as to the equipment or space to be provided and

details as to cost, on an annual and total lease basis, which may be used for evaluation of the proposal. The lease shall also include details as to additional cost beyond the base lease amount necessary to properly evaluate the equipment to be leased prior to award to the successful vendor. For leases involving an annual total lease expense of less than \$25,000.00, RLDC staff shall secure at least three informal quotes, whenever possible, and perform the same evaluation before making a recommendation to the Executive Director relative to the selection of a lessor for the equipment to be leased. Any lease of real property shall be exempt from the provisions of this Policy, and shall be procured under an alternative procurement policy approved by the RLDC Board.

SOLE SOURCE

It is the policy of the RLDC to promote competition in the procurement process, whenever possible. Toward that end, the RLDC will not specify the product of a certain manufacturer to the exclusion of all other comparable products, except where such a designation is required for the public interest, such as where local geographic, atmospheric or other conditions require the use of the, and only the type of, equipment specified. Where the RLDC specifies a particular article or type of equipment which it regards as its general standard, it will provide that any other manufacturer of similar equipment may meet the specifications if his or her product is reasonably equivalent to that mentioned as the standard. Only in those instances where the RLDC is required to secure equipment or service from a sole source, may a purchase of such items or service be made without a competitive procurement process.

EMERGENCIES

Notwithstanding any of the other provisions in this Policy, in the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting RLDC buildings, RLDC property or the life, health, safety or property of RLDC employees, customers or the general public require immediate action which cannot await a competitive process or competitive bidding, contracts for public work or the purchase of supplies, materials or equipment or services may be let by the Chairman, Treasurer, Executive Director, Executive Committee or RLDC Board by immediate contract and the Executive Director may temporarily dispense with the competitive bidding or procurement requirements set forth herein. However, a good faith emergency must exist and while the emergency purchases do not require competitive bidding, it is nevertheless the policy and procedure of this RLDC that such purchases must, wherever possible, be made in light of the nature of the emergency and the goods, equipment and services to be provided for a reasonable cost, and in the best interest of the RLDC. The term of any contract entered into due to the occurrence of an emergency as set forth herein shall be for a length of time deemed reasonable by the Executive Director taking into consideration the nature of the emergency and the goods, equipment and services to be provided, including the costs related thereto.

STANDARDIZATION

Standardization should be utilized only where there are strong reasons of efficiency or economy. It is the RLDC's policy that it will not specify the product of a certain manufacturer to the exclusion of all other comparable products except where such a designation is required for the public interest. Although the RLDC may specify a particular article or type of equipment which it regards as its general

standard, it should provide that any other manufacturer of a similar object may meet the specifications if his or her product is reasonably equivalent to that mentioned as the standard.

SURPLUS AND SECOND-HAND SUPPLIES

Surplus and second-hand supplies, material or equipment may be purchased by the RLDC without competitive bidding from the Federal Government, the State of New York or from any other political subdivision, district or public benefit corporation.

INTER-AGENCY AGREEMENTS

The RLDC may enter into agreements with the Town, municipalities, public benefit corporations, public corporations, state agencies, and agencies of the Federal government pursuant to the authority set forth in its Enabling Act, and such agreements shall be exempt from the requirements of this Policy.

BID OR PROPOSAL MISTAKE

A bidder or proposer may correct, modify or withdraw a bid or proposal by written notice received by the Executive Director or his or her designee, prior to the time and date set for the receipt of bids or proposals. For any bids or proposals received by the RLDC, the Executive Director, or his or her designee, may waive minor informalities or allow the bidder or proposer to correct them.

BID/PROPOSAL PROTEST PROCEDURES

(1) Introduction

- (a) The following procedures shall apply to all procurements conducted by the RLDC.
- (b) All actual or prospective bidders, proposers or offerers whose direct economic interest would be affected by the award of, or failure to award, a contract shall be deemed "Interested Parties" for the purposes of these procedures. Protests regarding procurements will only be accepted from Interested Parties.
- (c) All protests shall be filed in writing with the Executive Director for the RLDC, and shall be addressed as follows:

Executive Director
Ramapo Local Development Corporation
120 Torne Valley Road
PO Box 65
Hillburn, NY 10931

- (d) A protest found by the RLDC to be patently without merit or not brought in a timely manner may be rejected without further consideration. Protest submissions should be factual,

complete, concise, logically arranged and clearly state all grounds for the protest. All protests must include the following information:

- Name, address, telephone and facsimile number of protestor and designated contact person for purposes of the protest;
- Solicitation or contract number which is the subject of the protest;
- Detailed statement of the legal and factual grounds of the protest, including copies of relevant documents;
- Basis for the protestor's status as an Interested Party;
- Date on which the protestor first learned of the alleged improprieties, if applicable; and
- Statement as to what relief is requested.

(e) If the RLDC finds that none of the conditions set forth in Section (l)(d) apply, and a protest is timely filed pursuant to the provisions set forth in Section (2), below, the RLDC will cease all further actions regarding a procurement until the protest is decided. Therefore, while such a protest is being decided, the RLDC will not open bids or proposals, or award the contract if such steps have not already been taken. The RLDC may, in its discretion, accept further bids or proposals to be held unopened until the protest is decided.

(f) False statements or accusations of impropriety for which the protestor fails to offer a reasonable factual basis may be grounds for a rejection of a protest.

(g) Compliance with these Procedures shall be a condition precedent to the filing of any legal challenge regarding procurement by the RLDC.

(2) Time for Filing Protests

(a) Protests Regarding Specifications

Protests that are based upon claims by any Interested Party that the Specifications are in any way ambiguous, incorrect, incomplete, or unduly restrictive, must be filed in accordance with Section (l)(c) of these Procedures so that the RLDC receives the protest no later than fourteen (14) business days prior to the closing date for receipt of initial bids or proposals.

(b) Protests Regarding Alleged Improprieties in Solicitation

Protests that are based upon claims by any Interested Party that there are improprieties regarding any type of solicitation, other than those governed by Section (2)(a), above, must be filed in accordance with Section (l)(c) of these Procedures so that the RLDC receives the protest within five (5) business days following the date on which the Interested Party learned of the alleged improprieties, and no later than seven (7) business days prior to the bid or proposal opening date.

(c) Post-award Protests

Protests that are based upon alleged improprieties in any type of solicitation which are not apparent before the time periods set forth in (2)(a) and (2)(b), above, must be filed in accordance with Section (l)(c) of these Procedures so that the RLDC receives the protest no later than two (2) calendar weeks after receipt of notification of the identity of the apparent low bidder or of the apparent successful proposer. Late protests may, for good cause shown, be considered by the RLDC in its discretion.

(d) Notice for Post-award Protests

Where a Contract has already been awarded at the time a protest has been filed, the RLDC shall provide written notice of the protest to the Contractor that received the contract award. The RLDC shall also provide a copy of the protest to that Contractor.

(3) RLDC's Response to Protests

(a) An award of a contract prior to the protest determination may be made when the RLDC determines that:

- The items or services to be procured are urgently required; or
- Delivery or performance will be unduly delayed by failure to make the award promptly; or
- Failure to make prompt award will otherwise cause undue harm to the LDC; or
- The LDC determines that the process for making a determination will involve an investigation that may become lengthy.

(b) The Executive Director, or his or her designee, will give written notice to the protestor when a decision has been made by the RLDC to proceed with the award prior to the protest determination pursuant to Section (3)(a), above.

(c) The Executive Director, or his or her designee, will issue a written response to each protest addressing the material issues raised by the protestor. The RLDC's decision will be final and binding.

SUPPORT FOR MINORITY, WOMEN-OWNED, AND SMALL BUSINESSES

The RLDC expresses its support to encourage contracts with minority, women-owned, and small businesses when awarding contracts in purchasing goods, services and equipment. Hereunder, the RLDC will not discriminate, against any person who is qualified and available to perform the work by reason of race, color, creed, gender or national origin. The RLDC will encourage active participation by women-owned, minority-owned and small businesses in its procurement process and fully supports equal opportunity and fair treatment of all people in its contracting.

LEGAL REVIEW

Contracts may only be executed after appropriate legal review by the RLDC Counsel or any special counsel so designated.

GRANT FUNDS

Any procurement procedures required to be followed by the RLDC as a condition of the receipt of any grant awarded to the RLDC shall supersede any provision to the contrary set forth in this Policy.

ANNUAL REVIEW

The Executive Director shall annually review this Policy and make recommendations to the RLDC Board relating thereto as he or she deems appropriate.

Use of Request/Voucher Form

It is the policy of RLDC to utilize a Request/Voucher system. A properly completed Request/Voucher shall be required for each purchase decision. A properly completed Request/Voucher shall contain the following information, at a minimum:

1. Specifications or statement of services required
2. Vendor name, address
3. Source of funding (if applicable)
4. Net price per unit, less discount, if any
5. Total amount of order
6. Approved signatures

Approval of Purchases and Purchasing Limits

All completed Request/Vouchers must be signed by the preparer and approved by the department supervisor with authorization by the Treasurer.

Vendor-Required Documentation

Upon making the initial purchase from any vendor (regardless of whether a contract is involved), the Accounting Department either orally confirms their corporate status or obtains their Federal ID #. Vendors who are not incorporated shall be issued a Form 1099 at the end of each calendar year in accordance with the policies described in the section of this manual on "Government Returns."

See the section on "Payroll and Related Policies" for guidance on determining whether a vendor should be treated as an employee.

Ethical Conduct in Purchasing

Ethical conduct in managing the Organization's purchasing activities is absolutely essential.

Staff shall discourage the offer of, and decline, individual gifts or gratuities of value in any way that might influence the purchase of supplies, equipment, and/or services. Staff shall notify their immediate supervisor if they are offered such gifts. Gifts to the Organization, viewed as normal business incentives to obtain future Organization-approved business, are acceptable donations.

Conflicts of Interest Prohibited

No officer, board member, employee, or agent of RLDC shall participate in the selection or administration of a vendor if a real or apparent conflict of interest would be involved. Such a conflict would arise if an officer, board member, employee or agent, or any member of his/her immediate family, his/her spouse/partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in the vendor selected.

Officers, board members, employees and agents of Ramapo Local Development Corp. shall neither solicit nor accept gratuities, favors, or anything of monetary value from vendors or parties to sub-agreements.

Receipt and Acceptance of Goods

The employee that requested the merchandise or a designated individual shall inspect all goods received. Upon receipt of any item from a vendor, the following actions shall immediately be taken:

1. Verify the quantity of boxes/containers with the packing slip
2. Examine boxes/containers for exterior damage
3. Note any discrepancies on the packing slip
4. Retain a copy of the packing slip until invoice is received.

It is the policy of RLDC to perform the preceding inspection procedures in a timely manner in order to facilitate prompt return of goods and/or communication with vendors.