

## **BATAVIA DEVELOPMENT CORPORATION (BDC) PROCUREMENT POLICY**

I. Introduction- The policies and procedures set forth herein have been developed by the Batavia Development Corporation pursuant to GML Section 104-b regarding the procurement of Goods and Services not required by law to be procured by competitive bidding.

II. Declaration of Policy- Goods and Services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of Corporation moneys in the best interests of the taxpayers of the political subdivision or district, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the Batavia Development Corporation have adopted the policies and procedures set forth herein governing all procurement of Goods and Services which are not required to be produced pursuant to competitive bidding.

III. Determination of Procurement- the Director of Economic Development is designated to be responsible for determining whether a procurement of Goods and Services is subject to Competitive Quotations or it exempt from such procurement, and the Director of Economic Development is authorized to determine that the nature of a particular project or class of projects is exempt from the procurement policies described herein. The BDC hereby finds and determines that Profession Services, are in all cases, exempt from these procurement policies and procedures, as solicitation of alternate proposals and quotations is not in the best interest of the Corporation in situations in which special skills and expertise is required.

IV. No Competitive Bidding- as of the date of adoption of these policies and procedures, the Corporation is not subject to the competitive bidding requirements of Section 103 of the General Municipal Law.

### V. Competitive Quotations

1. If the cost of the Goods or Services to be procured, based upon the written description prepared for the desired Goods or Services, will require an expenditure of more than \$1,000, but less than \$5,000, the desired Goods or Services shall be procured through Competitive Quotations solicited from not less than two Vendors.
2. If the cost of the Goods or Services to be procured, based upon the written description prepared for the desired Goods or Services, will involve an expenditure of more than \$5,000, the desired Goods or Services shall be procured through Competitive Quotations solicited from not less than three Vendors.
3. If, following reasonable efforts, insufficient numbers of Vendors exist for the solicitation of the requisite number of Competitive Quotations, then the Director of Economic Development shall cause to be solicited Competitive Quotations from less than the requisite number of Vendors; provided, however, that the basis and other facts and circumstances or such efforts and/or findings relating to this provision shall be placed in writing.
4. The Director of Economic Development shall cause to be made a record of the written description, the solicitation of the Competitive Quotations, the Competitive Quotations received and any other documents or materials prepared or received in connection with the procurement of Goods and Services of the Corporation.
5. Competitive Quotations need not be sealed and need not be opened and read at a stated time.
6. The Director of Economic Development need not recommend the procurement of goods and services from the Vendor offering the lowest dollar quotation, but may recommend to the Members determinations of which quotations will fulfill or meet the best interests or needs of the Corporation, and each recommended determinations may be based on such factors as, without limitation, quality, features or options, reliability or reputation of the Vendor, availability of service, delivery time and

location of the Vendor (local vis-a-vis non-local, in-state vis-avis out-of-state or country); and the Director of Economic Development may negotiate terms and price with all Vendors submitting quotations (provided that all such negotiations will be on substantially the same basis and regarding substantially the same matters), and the determination of the Members pursuant to the Director of Economic Development's recommendations made in good faith shall be final.

## VI. Exceptions

1. General Exceptions. The following Goods and Services may be procured by the Corporation without soliciting competitive quotations:
  - a. Services performed by inmates, or Goods manufactured, in correctional facilities operated by the New York State Department of Correctional Services or in local correctional facilities of this State; provided, however, that the procurement of such Goods and Services shall be in accordance with Section 186 of the Correction Law;
  - b. Goods and Services produced or assembled by the blind or other severely handicapped; provided, however, that the procurement of such Goods and Services shall be in accordance with Section 175-B of the State Finance Law;
  - c. Goods procured by the County in accordance with subdivision (2) of Section 408-a of the County Law; provided, however that no such procurement shall be made from the County when Competitive Quotations have already been received, unless such procurement may be made upon the same terms, conditions and specifications of a lower price through the County;
  - d. Goods in excess of \$500.00 procured by the State through the New York State Office of General Services, subject to rules established by such Office, in accordance with Section 163 of the State Finance Law; provided, however, that no such procurement shall be made from such Office when Competitive Quotations have already been received, unless such procurement may be made upon the same terms, conditions and specifications at a lower price through such Office;
  - e. Surplus and/or second-hand Goods which are being offered for purchase from the Federal or State governments or any other political subdivision or public benefit corporation within the State of New York.
2. Special Exceptions. Upon a determination that Goods or Services are (i) Professional Services, (ii) Sole Source Goods or Services or (iii) Goods or Services deemed by the Director of Economic Development, in his or her sole discretion, not in the best interest of the Corporation to be procured in accordance with the Competitive Quotation requirements set forth herein, the Director of Economic Development may procure such Goods or Services in such manner as the Director of Economic Development determines to be in the best interest of the Corporation and which otherwise is in accordance with the policies of the Corporation, as set forth in Section "2" herein.

VII. Authorization- The procurement of goods and services which will involve an expenditure of less than \$1,000 will be at the professional discretion of the Director of Economic Development. Authorization for individual expenditures of \$1,000 and over shall require the formal review and approval of the Corporation's Board.

## VIII. Entering into the Contract

1. Except as provided in "Section VIII, 2" herein, upon receipt of the requisite number of Competitive Quotations, the Director of Economic Development shall recommend to the Members that the Corporation enter into a Contract, or enter into an agreement, for such Goods or Services to the Vendor that submitted the Competitive Quotation with the lowest dollar offer for such Goods or Services, but subject to the provisions of Section "Section V, 6." hereof.
2. If the Director of Economic Development shall recommend to the Members that the Corporation enter into a Contract for Goods or Services to a Vendor that did not submit the Competitive Quotation with the lowest dollar offer, the Director of Economic Development shall state the reasons such an award furthers the policy set forth in "Section II" herein and in accordance with Section "Section V, 6." hereof.
3. Upon the procurement of Goods or Services in accordance with the provisions of "Section V, 3" herein, the Director of Economic Development shall recommend to the Members that the Corporation award

a Contract, or enter into an agreement, for such Goods or Services to the Vendor identified by the Director of Economic Development.

4. Upon receipt of the recommendation by the Director of Economic Development regarding the entering into a Contract, the Members shall authorize the Director of Economic Development to cause to be procured such Goods or Services with the recommended Vendor; provided, however, that the Members reserve the right to reject all bids or quotations, waive minor deviations, consider alternative bids or quotations, subject to the same terms and conditions of the written descriptions being sought by the Corporation.

IX. Purchases (\$1,000 or less)- Notwithstanding the provisions set forth herein, the procurement of Goods or Services involving an expenditure of up to five thousand dollars (\$1,000.00) may be made without seeking Competitive Quotations; provided, however, that any agent of the corporation authorized to make such a procurement shall use his or her best efforts to obtain the lowest cost for such Goods or Services, but taking into consideration the terms of Section "Section V, 6." hereof.

X. Policy for Corporation's Benefit- These policies and procedures are intended solely for the benefit of the Corporation and are not intended for the economic or other benefit of any particular Vendor making a quotation; and accordingly, no Vendor shall have the right to challenge the determination of the Corporation to enter into Contracts for Goods and Services in accordance with the policies and procedures herein set forth.

#### XI. MISCELLANEOUS

1. Procurement of Insurance – Procurement of Insurance Brokerage/Agent is subject to this Policy as a professional service. Notwithstanding the foregoing actual insurance policies procured are not subject to requirements of this Policy. Insurance Policies shall be reviewed by the Members annually.
2. Genesee County Business Enterprises – It is the preference of the Corporation to provide opportunities for the purchase of good and services from business enterprises located in Genesee County.
3. Minority & Women Owned Business Enterprises (M/WBE) – The Corporation shall comply with all applicable legal requirements relating to the hiring of such businesses. It is understood that granting agencies may enforce requirements regarding M/WBE participation and the Corporation may not be able to choose lowest responsible bidders in order to comply in these situations.
4. Effect of Other Procurement Requirements – Where the procurement of a specific good or service is to be accomplished using funds other than the funds of the Corporation 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.
5. The Members shall review the policies and procedures herein not later than March 31, 1995, and each year thereafter. Amendments to these policies and procedures may be made at any time during the year.
6. The unintentional failure to fully comply with the provisions of the policies and procedures set forth herein shall not be grounds to void action taken or give rise to a cause of action against the Corporation, the Members, the Director of Economic Development, or any officer or employee of the Corporation.