

NASSAU COUNTY SEWER AND STORM WATER FINANCE AUTHORITY

Resolution Approving a Statement of Procurement Policy and Procedures

WHEREAS, section 1232-c[3] of the Nassau County Sewer and Storm Water Finance Authority Act (the “Act”) provides that the Nassau County Sewer and Storm Water Finance Authority (the “Authority”) may from time to time contract for expert professional services; and

WHEREAS, section 1232-d[5] of the Act provides the Authority with the power to enter into contracts for the purposes of the Authority to carry out any powers expressly given to it in the Act; and

WHEREAS, section 1232-c[2] of the Act provides that no action shall be taken by the Governing Body of the Authority (the “Governing Body”) except pursuant to the favorable vote of at least four members; provided, however, that no action shall be taken approving contracts in an amount exceeding \$50,000, except by favorable vote of five members of the Governing Body; and

WHEREAS, section 1232-c[2] of the Act allows the Governing Body to delegate to one or more of its members or officers such powers and duties as it may deem proper; and

WHEREAS, section 1232-d[10] of the Act gives the Authority the power to do all things necessary, convenient or desirable for the exercise of powers granted in the Act; and

WHEREAS, it is necessary, convenient and desirable to adopt an internal policy and procedures governing all procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of any general, special or local law; NOW, THEREFORE,

BE IT RESOLVED that the Authority hereby adopts the following Statement of Procurement Policy and Procedures:

General Statement of Policy

It is the policy of the Authority to assure the prudent and economical use of Authority moneys, 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.

The Governing Body shall review these policies and procedures annually.

Procurement Procedures

The Authority shall adhere to these procurement procedures unless it finds a necessity to proceed by other means by resolution to the contrary:

1. Recordkeeping:

The Authority will maintain records sufficient to detail the significant history of every procurement of goods and services. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. Notwithstanding the foregoing, a receipt shall be a sufficient record of purchases of goods or services under \$500.

2. Procurement of Goods and Services Valued Under \$500:

The Chairperson using his/her judgment as to the most appropriate vendor shall award all procurements of goods and services valued under \$500.

3. Procurement of Office Supplies:

The Chairperson may procure office supplies (excluding computer equipment), without soliciting bids or proposals, from any national retail vendor (such as Staples or Office Depot).

4. Procurement of Goods and Services Valued at Greater than \$500:

The Authority shall use its best efforts, either orally or in writing, to obtain at least three bids or price quotations for the procurement. The Authority shall document such attempt and its result. If the selected vendor is not the lowest price vendor or if fewer than three bids or price quotations were obtained, the documentation, which shall be signed by the Chairperson, shall contain a justification as to why the particular vendor has been selected and/or why fewer than three bids or price quotations were obtained.

5. Competitive Proposals:

When a service contract will result in a commitment of more than one year with a value over \$50,000 per year, or a total value of over \$100,000, competitive proposals is the preferred method of procurement.

When competitive proposals are used, all solicitations and requests for proposals should be in writing and should:

- (i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description should not contain features that unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, should set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a brand name or equal description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors should be

clearly stated and should identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals;

- (ii) Proposals will be solicited from an adequate number of qualified sources;
- (iii) Prior to publication of a request for proposal the Authority should have a method for conducting technical evaluations of the proposals received and for selecting awardees; and
- (iv) Awards will be made to the responsible firm whose proposal is most advantageous to the Authority, with price and other factors considered.

6. MBE/WBE Contractors:

As required by section 1232-o of the Act, the Authority is deemed a state agency for the purposes of Article 15-A of the New York State Executive Law and the Authority will solicit proposals in conformity with such law's provisions regarding the participation by minority group members and women with respect to Authority contracts.

7. Utilization of State and County Procurement Processes and Approved Vendors:

Notwithstanding any other provision herein, the Authority shall be authorized to:

- (i) award contracts for the purchase of goods or services from the New York State approved vendor list, for the particular goods referenced therein, on the same terms and in the same manner as a municipality is authorized to utilize such list;
- (ii) award contracts, without soliciting bids or proposals, to any vendor with a current Nassau County (the "County") contract on substantially the same terms and conditions as those set forth in the County contract or upon more favorable terms and conditions; and
- (iii) use responses to any County-issued request for bids or proposals as a predicate to entering into a contract, without independently soliciting bids for the same good or service, and may negotiate and enter such a contract without regard to determinations made or contracts entered by the County in relation to such solicitation.
- (iv) utilize the services of County personnel, procurement processes or financial/accounting systems whenever possible to assist the Authority in carrying out its purposes.

8. Emergency Procurements:

Notwithstanding any other provision herein, the Chairperson may make or authorize others to make emergency procurements and award contracts when there exists a threat to health, safety, property or a necessary service in which the County or the Authority has an interest, or in any other situation found and declared by the Chairperson to require an emergency procurement; provided that:

- (i) such emergency procurement shall be made with such competition as is practicable under the circumstances;
- (ii) a written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the Authority's files; and
- (iii) any contract so procured shall be ratified by the Authority as soon as practicable.

9. Definition of Approving Contracts:

For purposes of these procurement procedures and Section 1232-C[2] of the Act, "approving contracts" shall mean: (i) voting to award a specific contract with a particular vendor as such contract is presented by the Governing Body; or (ii) voting to authorize the issuance by the Chairperson of a contract for a specific good or service, where such issuance will occur after a competitive process and where such issuance will be based upon the lowest bid price and the meeting of industry criteria, the application of which does not involve the exercise of discretion. In any case where the Chairperson awards such a contract the Chairperson may request ratification by the Authority.

THE FOREGOING PROCEDURES ARE IN ADDITION TO AND NOT IN LIEU OF THE SAFEGUARDS AND PROCEDURES ADOPTED BY THE AUTHORITY FROM TIME TO TIME REGARDING CHECK WRITING AUTHORITY AND THE AUTHORITY'S BUDGET PROCESS.

FURTHERMORE, IN ALL CASES, THE AUTHORITY MAY TAKE NO ACTION APPROVING CONTRACTS OR RATIFYING CONTRACTS IN AN AMOUNT EXCEEDING \$50,000, EXCEPT BY FAVORABLE VOTE OF AT LEAST FIVE MEMBERS OF THE GOVERNING BODY.

In the absence or unavailability of the Chairperson to act as aforesaid, the Vice-Chairperson may award or issue any contracts or procure office supplies with the same authority of the Chairperson as aforesaid.

The unintentional failure to fully comply with the provisions of this statement shall not be grounds to void action taken or give rise to a cause of action against the Authority, or any member or officer.

This resolution shall take effect immediately.