

NEW YORK CITY ENERGY EFFICIENCY CORPORATION

PROCUREMENT POLICY

Article I Purpose

The purpose of this procurement policy (this "Policy") is to set forth the policies of the New York City Energy Efficiency Corporation (the "Corporation") with respect to the Corporation's procurement of all goods and services (including information technology, consulting and other services of any type). Where any laws, rules or regulations applicable to the Corporation's funds, or any portion thereof, prescribe procurement requirements that differ from those set forth in this Policy, the requirements of such laws, rules or regulations shall govern with respect to the procurement of all contracts that will be or may be subject to such requirements. The Corporation's procurements shall be managed by its personnel.

Article II Procedures

Section 1. Procurement Methods

Contracts by the Corporation shall be awarded by one of the following four methods:

a. Small Purchase Procurement

All procurements for an amount larger than \$20,000 but not more than \$100,000¹ shall be made using the small purchase procurement method (a "Small Purchase Procurement"). In each Small Purchase Procurement, the Corporation shall solicit proposals through a written request for proposals ("RFP"). The Corporation shall use reasonable efforts to obtain proposals from at least three responsible persons or entities. Except where the Corporation determines that another period of time is reasonable and appropriate under the circumstances, each RFP shall give bidders at least three weeks from the date the RFP is issued to submit proposals. Procurement requirements shall not be artificially divided so as to constitute a Small Purchase Procurement under this subsection.

¹ If Section 3-08 (or any successor provision) of New York City's Procurement Policy Board Rules permits the City to make a small purchase procurement for goods, information technology, consulting services or other services or any other matter for a larger amount than the limit set forth above for the Corporation, then such higher limit shall also apply to the Corporation.

b. Competitive Procurement

All procurements for an amount larger than \$100,000 shall be made using the competitive proposals procurement method (a "Competitive Procurement"). In each Competitive Procurement, the Corporation shall solicit proposals through a written RFP, which shall thoroughly describe the goods or services sought by the Corporation. The Corporation shall use reasonable efforts to obtain proposals from at least three responsible persons or entities. The Corporation shall provide adequate public notice of the solicitation by publication of the RFP on the Corporation's web site and on any other web site or in any publication that the Corporation deems reasonable. Except where the Corporation determines that another period of time is reasonable and appropriate under the circumstances, each RFP shall give bidders at least three weeks from the date the RFP is issued to submit proposals.

The contract resulting from a Competitive Procurement, if any, shall be awarded to the responsible and responsive bidder whose proposal is determined in writing to be the most advantageous to the Corporation, taking into consideration the evaluation factors set forth below and any other factors deemed relevant by the Corporation.

c. Non-Competitive/Sole Source Procurement

A contract may be awarded for goods or services, without competition (meaning solicitation of a proposal from only one source, or if after solicitation of proposals from a number of sources, competition is determined inadequate), to a single source (a "Sole Source Procurement") when (i) such award is permitted by the Federal, state or local law, rule or regulation applicable to the funds being used; (ii) such award is authorized by a majority vote of the Corporation's Board of Directors, or when, with the Board's approval, the Corporation's President or another Officer of the Corporation determines in writing that there is only one source for the required goods or services; (iii) the award of a contract under another available procurement method is infeasible; and (iv) one of the following circumstances apply: (A) the goods or services are available only from a single source; (B) the Corporation's President or another Officer of the Corporation determines in writing that emergency circumstances exist such that time is of the essence; (C) where applicable, the awarding agency authorizes non-competitive proposals; or (D) after solicitation of a number of sources, competition is determined to be inadequate.

d. Micro-Purchase Procurement

For any procurement of goods or services of any type totaling \$20,000 or less, the Corporation shall obtain proposals from one or more persons or entities as it deems appropriate (a "Micro-Purchase Procurement"). If the Corporation only obtains a proposal from one person or entity pursuant to this subsection, it shall not be considered a Sole Source Procurement under this Policy. Procurement requirements shall not be artificially divided so as to constitute a Micro-Purchase Procurement under this subsection. Procurements duly undertaken as Micro-Purchase Procurements that result in fair and reasonable prices for the Corporation need not follow the evaluation and selection process described in Section 2 below; provided, that reasonable efforts (that are in any case consistent with the Corporation's prevailing practices)

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shall be undertaken to document the procurement and selection process of all Micro-Purchase Procurements.

Section 2. Evaluation and Selection Process

a. General Policy

The Corporation shall conduct all procurements in a manner that promotes full and open competition.

b. Evaluation Process

Proposals submitted in connection with Small Purchase Procurements and Competitive Procurements shall be evaluated on the basis of the following criteria ("Evaluation Criteria"): the bidder's competence and capacity to perform the services or provide the goods as proposed; the bidder's qualifications; relevant knowledge and experience; the bidder's reputation in the industry; cost; and such other criteria as the Corporation may consider appropriate.

As shall have been provided in the RFP, and under relevant Corporation guidelines, if any, discussions may be conducted with one or more bidders who submit proposals determined by the Corporation to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements and for other appropriate purposes. Such bidders shall be accorded fair and equal treatment with respect to any opportunity for discussion and all bidders shall be accorded fair and equal treatment with respect to any opportunity granted by the Corporation to revise proposals, and such revisions may be permitted by the Corporation after submissions and prior to award for the purpose of obtaining best and final offers or for other appropriate purposes. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing bidders.

c. Consultant Selection Committee

In the procurement of all consulting and professional services, the Corporation shall organize a committee of at least three qualified Corporation personnel (a "Selection Committee"). The Selection Committee shall evaluate current statements of qualification and performance data on file with the Corporation (if any) regarding the bidders under consideration. The Selection Committee or CEO shall obtain proposals in accordance with Section 1; review such proposals in a manner consistent with this Section 2, and may conduct discussions with some or all of the bidders and then, based on the Selection Committee's review of all proposals against the Evaluation Criteria, shall rank the bidders, in order of preference, considered to be the most appropriate to provide the services required.

d. Negotiation

In the procurement of all consulting and professional services, the CEO, or a designated employee of the Corporation, shall negotiate a contract with the most appropriate firm or person identified by the Selection Committee, at a compensation level that is fair and reasonable to the

Corporation. In making compensation decisions, the Corporation shall take into account the estimated value, the scope, the complexity and the professional nature of the services to be rendered. Within a reasonable period of time, should the Corporation be unable to negotiate a satisfactory contract with the first ranked bidder at a price the Corporation determines to be fair and reasonable, the Corporation shall terminate negotiations with that bidder, and then undertake negotiations with the second ranked bidder (if applicable). Failing accord with the second ranked bidder, the Corporation shall terminate such negotiations and then undertake negotiations with the third ranked bidder (if applicable). Should the Corporation be unable to negotiate a contract with any of the selected firms within a reasonable period of time, the Corporation may select additional persons or firms in an order based on the quality of their proposals and their proposed prices, competence and qualifications, and may continue negotiations in accordance with this subsection until an agreement is reached.

e. Award

The Corporation may only award contracts for goods to the responsible bidder whose product is of the best quality, as determined by the Corporation, and whose bid conforms with all material terms and conditions of the RFP, is the lowest in price and provides the best value for the goods being purchased.

The Corporation may only award contracts for consulting and professional services on the basis of demonstrated competence and qualification for the type of service required, and at a fair and reasonable price and after the evaluation and selection process described above in this Section 2 has been duly undertaken.

The Corporation may elect to cancel a RFP at any time and is not required to make an award to any of the bidders, should the Corporation determine, in its sole and absolute discretion, that none of the proposals satisfied its needs. Similarly, the Corporation, in its sole and absolute discretion, may select more than one bidder should the Corporation determine that it is necessary or appropriate for multiple persons or entities to provide the goods or services being procured.

No contract that will be or may be funded under the City Contract or that is otherwise subject to the requirements of the City Contract shall be awarded or entered into by the Corporation until, to the extent required by the City Contract, the City's prior consent has been duly obtained. As used herein, the term "City" means the City of New York, and the term "City Contract" means the Contract dated November 18, 2010 between the City and the Corporation, as such Contract was amended by the Amendment dated March 9, 2016, and as it may be further amended, amended and restated, modified, supplemented or replaced from time to time.

Section 3. Record Keeping

The Corporation shall maintain records sufficient to detail the significant history of all procurements for at least six years after the final payment or expiration or termination of the City Contract (or for such longer period as may be required by law). These records should include, but are not limited to: (i) the rationale for the method of procurement, (ii) the names of the bidders, (iii) the bidder(s) selected or rejected, and (iv) the basis for the contract price. The types of records maintained shall in any case be consistent with the Corporation's prevailing practices.



In the case of all Sole Source Procurements, the Corporation shall document its procurement activity, account for the existence of infeasibility for the solicitation of the goods or services through the Competitive Procurement process, account for any additional circumstances related to the use of the Sole Source Procurement process and retain all significant records related to the procurement procedures for at least six years after the final payment or expiration or termination of the City Contract (or for such longer period as may be required by law).

The Corporation shall perform, document and retain cost or price analysis in connection with all procurements, including contract modifications. The Corporation shall determine the method and degree of analysis to be performed based on the facts and circumstances surrounding the particular procurement situation. Notwithstanding the foregoing, however, the Corporation shall make independent estimates before receiving bids or proposals. With respect to all Sole Source Procurements, no such cost or price analysis shall be required, however, if price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.

Section 4. Consulting Contracts

a. Provisions to be Included in Consulting Contracts

To the extent applicable, consulting and professional services contracts shall contain any provisions required pursuant to the City Contract or any other applicable contract or law and shall otherwise be consistent with the Corporation's policies.

b. Consulting Contract Amendments

Contracts may be amended by the Corporation to extend the term, increase the maximum contract price, change the scope and for any other reason; provided, that:

1. with respect to a consulting or professional services contract resulting from a Small Purchase Procurement, any amendment to increase the maximum contract price to greater than \$100,000 shall not be permitted except in accordance with this Policy, the Corporation's other applicable policies (if any) and prevailing practices; and
2. with respect to a consulting or professional services contract resulting from a Micro-Purchase Procurement, any amendment to increase the maximum contract price to greater than \$20,000 shall not be permitted except in accordance with this Policy, the Corporation's other applicable policies (if any) and prevailing practices.

Section 5. Insurance

The Corporation shall cause all contractors to maintain insurance coverage in accordance with the Corporation's policies, as they relate to contractors, and applicable law.

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Section 6. Loans and Credit Enhancements

All agreements for or relating to loans, credit enhancements or equity investments shall not be considered a contract for purposes of this Policy.

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