

ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY
PROCUREMENT POLICY

A. Introduction

1. Scope – In accordance with Article 18-A of the General Municipal Law (the “IDA Act”), Section 104-b of the General Municipal Law, the Public Authorities Accountability Act of 2005 and Section 139-j of the State Finance Law ("procurement Lobbying Act"), the Orange County Industrial Development Agency is required to adopt procurement policies which will apply to the procurement of goods and services not subject to the competitive bidding requirements of Section 103 of the GML and paid for by the IDA for its own use and account.
2. Purpose – Pursuant to Section 104-b of the GML, the primary objectives of this policy are to assure the prudent and economical use of public monies in the best interests of the taxpayers of the County, 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.

B. Procurement Policy

1. Determination Required – Prior to commencing any procurement of goods and services, the Managing Director or an authorized designee shall prepare a written statement setting forth the basis for (1) the determination that competitive bidding is not required for such procurement, and if applicable (2) the determination that such procurement is not subject to any requirements set forth in this policy. Such written statements shall be maintained by the Managing Director or such authorized designee in a specially designated procurement file.
2. Procedure for determining whether Procurements are subject to Competitive Bidding – The procedure for determining whether a procurement of goods and services is subject to competitive bidding shall be as follows:
 - a. The Managing Director or an authorized designee shall make the initial determination as to whether competitive

bidding is required. This determination will be based on Section 103 of the GML which requires competitive bidding for expenditures of (1) more than \$35,000 for the performance of any public works contract (services, labor or construction), and (2) more than \$20,000 for any purchase contract (acquisition of commodities, materials, supplies or equipment).

- b. The Managing Director or such authorized designee shall review the purchase request against prior years' expenditures and a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate purchases of a similar nature will exceed the above competitive bidding procedures shall be followed for said expenditure.
 - c. The Managing Director or such authorized designee shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to the Agency's Counsel.
3. Methods of Competition to be used for Non-Bid Procurements and Procurements Exempt by Statute – Alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals or written quotations, verbal quotations or any other method of procurement which furthers the purposes of this Section except for items excepted herein (see 7 below) or procurements made pursuant to:
- a. GML, Section 103 (3) (through county contracts), or
 - b. GML, Section 104 (through state contracts), or
 - c. State Finance Law, Section 175-b (from agencies for the blind or severely handicapped), or
 - d. Correction Law, Section 186 (articles manufactured in correctional institutions).
4. Procedures for the Purchase of Commodities, Equipment or Goods under \$20,000.
- a. Up to \$2,500 The discretion of the Managing Director or

authorized designee.

- b. \$2,501-\$5,000 Documented verbal quotations from at least three vendors.
 - c. \$5,001 - \$20,000 Written/fax quotations from at least three vendors.
5. Procedures for the Purchase of Public Works or Services under \$35,000.
- a. Up to \$2,500 The discretion of the Managing Director or authorized designee.
 - b. \$2,501 - \$5,000 Documented verbal quotations from at least three vendors.
 - c. \$5,001 - \$35,000 Written/fax quotations from at least three
6. Basis for the Award of Contracts – Contracts will be awarded to the lowest responsible vendor who meets the specifications.
7. Circumstances justifying an Award to other than the Lowest Cost quoted.
- a. Delivery requirements
 - b. Quality requirements
 - c. Quality
 - d. Past vendor performance
 - e. The unavailability of three or more vendors who are able to quote on a procurement.
 - f. It may be in the best interests of the Agency to consider only one vendor who has previous expertise with respect to a particular procurement.
8. Documentation
- a. For each purchase made the Managing Director or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.

b. The basis for any determination that competitive bidding is not required shall be documented, in writing, by the Managing Director or such authorized designee, and filed with the purchase order or contract therefore.

c. For those items not subject to competitive bidding such as professional services, emergencies, purchased under city contracts or procurements from sole sources, documentation should include a memo to the files which details why the procurement is not subject to competitive bidding and include, as applicable:

- (1) a description of the facts giving rise to the emergency and that they meet the statutory criteria; or
- (2) a description of the professional services; or
- (3) written verification of city contracts; or
- (4) opinions of Counsel, if any; or
- (5) a description of sole source items and how such determinations were made.

d. Whenever an award is made to other than the lowest quote the reasons for doing so shall be set forth in writing and maintained in the procurement file.

e. 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.

f. Pursuant to The Iran Divestment Act of 2012 as codified in Section 103-g of the General Municipal Law, every public works contract or purchase contract shall contain a statement of non-investment signed and affirmed as true, under the penalty of perjury, by the successful bidder/ vendor that to the best of said bidder/vendor's knowledge and belief, the bidder/vendor is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.

9. Exceptions to Bidding

a. Emergency Situation – An emergency exists if the delay caused by soliciting quotes would endanger the health, welfare or property of the municipality or of the citizens. With approval by the Managing Director such emergency shall not

be subject to competitive bidding or the procedures stated above.

b. Resolution Waiving Bidding Requirements – The Agency may adopt a resolution waiving the competitive bidding requirements whenever it is determined to be impracticable.

c. Sole Source – Defined as a situation when there is only one possible source from which to procure goods and/or services and it is shown that the item needed has unique benefits, the cost is reasonable for the product offered and there is no competition available. In this situation, a request for a resolution waiving bidding requirements, as described above, is required.

d. True Lease – Prices will be obtained through quotations whenever possible. The award shall be made on the basis of goods and/or services to be provided, ability to meet the specifications desired and price.

e. Insurance – All insurance policies shall be procured in accordance with the following procedures:

- (1) Premium less than \$10,000 – documented telephone quotations from at least three agents (if available).
- (2) Premium over \$10,001 – written quotations/fax or proposals from at least three agents (if available)

f. Professional Services – This category includes services which require special education and/or training, license to practice or are creative in nature. Examples of professional services are: lawyers, doctors, accountants, engineers, artists, etc. Minority and Women Business Enterprises – The Agency shall comply with all applicable legal requirements relating to the hiring of such businesses.

10. Input from members of the Agency – Comments concerning the procurement policy shall be solicited from the members of the Agency from time to time.

11. Annual Review – The Agency shall annually review its policies and procedures.
12. Unintentional Failure to Comply – The unintentional failure to comply with the provisions of Section 104-b of the GML shall not be grounds to void action taken or give rise to a cause of action against the Agency or any officer thereof.
13. Procurement Lobbying. Pursuant to Section 139-j of the State Finance Law, the Agency designates its Chief Operating Officer as its authorized contact during each procurement activity.
 - a. No person or entity submitting bids, proposals, quotations, or offers in response to any Agency request for bids, proposals, services, technology or other commodities involving an estimated annualized expenditure in excess of \$15,000 shall contact any Agency Board member, officer or employee during the restricted period except for contacts made with the Agency's Chief Operating Officer.
 - b. For the purposes of this section, a "contact" shall mean any oral, written or electronic communication with the Agency under circumstances where a reasonable person would infer that the communication was intended to influence the Agency's conduct regarding the award of a procurement contract.
 - c. For the purposes of this section, the "restricted period" shall mean the period of time commencing with the earliest posting on the Agency's website or in a newspaper of general circulation, of an invitation of bids, requests for proposals or other method of soliciting responses from offerers intending to result in a contract with the Agency and ending with the final contract award and approval by the Agency.
 - d. For the purposes of this section, an "offerer" shall mean the individual or entity, or any employee, agent, consultant or person acting on behalf of such individual or entity that contacts the Agency during the restricted period of the procurement process whether or not the individual making such contact has a financial interest in the outcome of the procurement process.
 - e. Upon any contact in the restricted period, the Agency shall obtain the name, address, telephone number, place of principal employment and occupation of the person or organization making

the contact and inquire and record whether the person or organization making such contact was the offerer or was retained, employed or designated by or on behalf of the offerer to appear before or contact the Agency about the procurement. All recorded contacts shall be included in the procurement record for the procurement contract.

