

DUNKIRK LOCAL DEVELOPMENT CORPORATION
PROCUREMENT POLICY

A. Introduction

1. Scope – In accordance with the Not-For-Profit Corporation Law (the “N-PCL”) and the Public Authorities Accountability Act of 2005, Dunkirk Local Development Corporation (the “Corporation”) desires to adopt procurement policies which will apply to the procurement of goods and services to be paid for by the Corporation for its own use and account.
2. Purpose – Pursuant to the N-PCL, the primary objectives of this policy are to assure the prudent and economical use of the Corporation’s monies, 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 President/CEO 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 President/CEO 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 President/CEO or an authorized designee shall make the initial determination as to whether competitive bidding is required. This determination will be based whether the Corporation contemplates expenditures of (1) the performance of any construction contract (services, labor or construction), and (2) for any purchase contract (acquisition of commodities, materials, supplies or equipment).

- b. The President/CEO or such authorized designee shall review the purchase request against prior years' expenditures, if any, 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 President/CEO or such authorized designee shall present any legal issues regarding the applicability of the competitive bidding requirements stated herein to the Corporation'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 may be secured by use of written requests for proposals ("RFP"), requests for qualifications ("RFQ"), and/or written quotations, verbal quotations or any other method of procurement which furthers the purposes of this Section.
- 4. Procedures for the Purchase of Commodities, Equipment or Goods:
 - a. Up to \$500 The discretion of the President/CEO or authorized designee.
 - b. \$501 - \$3,000 Documented verbal quotations from at least three vendors.
 - d. \$3,001 - \$10,000 and up- Written/fax quotations from at least three vendors.
- 5. Procedures for the Purchase of Construction or other Services:
 - a. Up to \$1000 The discretion of the President/CEO or authorized designee.
 - b. \$1,001 - \$5,000 Documented verbal quotations from at least three vendors.
 - c. \$5,001 - \$20,000 and up Written/fax quotations from at least three vendors.
- 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 Corporation to consider only one vendor who has previous expertise with respect to a particular procurement.

8. Documentation

a. For each purchase made the President/CEO 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 President/CEO 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.

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.

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 President/CEO such emergency shall not be subject to competitive bidding or the procedures stated above.

b. Resolution Waiving Bidding Requirements – The Corporation 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)

10. Professional Services – Contracts for professional services involve the application of specialized expertise, the use of professional judgment, or a high degree of creativity. Professional services

include services which require special education and/or training, license to practice or are creative in nature. Examples are: lawyers, doctors, accountants and engineers. Furthermore, professional service contracts often involve a relationship of personal trust and confidence. Procurement of professional services below \$25,000 is not subject to the solicitation procedures contained in Section B(5) of this Policy.

11. Minority and Women Business Enterprises – The Corporation shall comply with all applicable legal requirements relating to the hiring of such businesses.
12. Input from members of the Corporation – Comments concerning the procurement policy shall be solicited from the members of the Corporation from time to time.
13. Annual Review – the Corporation shall annually review its policies and procedures.
14. Unintentional Failure to Comply – The unintentional failure to comply with the provisions of this policy shall not be grounds to void action taken or give rise to a cause of action against the Corporation or any officer thereof.

Approved and adopted this 9th day of December, 2009.