

# **ALBANY CSO POOL COMMUNITIES CORPORATION**

## **PROCUREMENT POLICY**

**Revised and Adopted by the Board of Directors July 9, 2015**

This Procurement Policy shall apply to the Albany CSO Pool Communities Corporation. In accordance with Article 5-A of the General Municipal Law (the "GML"), Section 104-b of the GML, and the Public Authorities Accountability Act of 2005, the Corporation has adopted these procurement policies, which will apply to the procurement of goods and services paid for by the Corporation. 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 Albany Pool Communities, 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.

1. Every prospective procurement of goods or services shall be evaluated to determine the applicability of GML § 103. Every Director, officer, or other personnel with the requisite purchasing authority (collectively and individually, a "Purchaser") shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other relevant procurements and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

2. In general accordance with GML § 103, contracts for a) supplies, materials, or equipment which will exceed \$20,000, or b) public works contracts over \$35,000 in the fiscal year, will be awarded to the lowest responsible bidder after advertisement for sealed bids as provided in GML § 103. Such contracts may alternatively be awarded to the best value bidder as provided in GML § 103.

3. Procurement of supplies, materials, services or equipment shall require the following procedures, where the cost is between:

- \$1,501 to \$20,000: a minimum of three written quotes;
- \$500 to \$1,500: a minimum of two documented quotes with procurement at the discretion of the Purchaser.

All professional service contracts where the estimated fee is between the amounts set forth below shall require the following:

- \$15,001 to \$35,000: written RFP from the Corporation and written proposals from at least 3 consultants/contractors;
- \$7,501 to \$15,000: written RFP from the Corporation and written proposals from at least 2 consultants/contractors;

# ALBANY CSO POOL COMMUNITIES CORPORATION

- \$1,501 to \$7,500: written proposals from at least 2 consultants/contractors, with procurement at the discretion of the Purchaser, with written agreement by either the Corporation's President or one member of the Board of Directors.

All RFPs shall be in writing and shall describe the required services, goods, quantity, schedule, and deliverables. The Purchaser shall compile a list of the providers from whom proposals have been requested and the proposals received.

4. A professional service contract shall be awarded to the best value bidder. The best value will be determined based on both cost/fee and quality of service described in the proposal, and may also be based on past experience with the provider. The President will make a recommendation for award to the Board of Directors, when required, including justification if the lowest cost/fee provider is not recommended. If a provider is not deemed responsible, facts supporting such determination will also be documented and filed with the record supporting the procurement.

5. Except where otherwise provided in GML § 103, the Public Authorities Law or the New York Not-for-Profit Corporation Law, a purchase contract shall be awarded to the lowest responsible bidder. In evaluating whether a bidder is a "responsible" bidder, the factors relevant to the bidder's performance of the work specified in the solicitation, or such other factors as may be listed in the solicitation shall be considered, including but not limited to:

- A. Financial and organizational capacity;
- B. Legal authority to do business in the State of New York and the Counties of Albany and Rensselaer;
- C. Integrity of the owners/officers/principals/members and contract managers;
- D. Past performance of the bidder on prior government contracts; and
- E. Sufficiency of the bidder's equipment and/or manpower to meet the required deliverables of the solicitation.

6. A good faith effort shall be made to obtain the required number of proposals or quotations. If the Purchaser is unable to obtain the required number of proposals or quotations, the Purchaser shall document the attempt made at obtaining the proposals, as set forth in Section 8, below. In no event shall the inability to obtain a certain number of proposals or quotes be a bar to the procurement. It is understood that especially for certain professional services the Corporation might be unable to find multiple providers with the expertise and abilities required to complete the proposed work, in which case the Purchaser must document the efforts he or she made to obtain multiple proposals.

7. It is the policy of the Corporation that Minority Business Enterprises (MBE) and Woman Business Enterprises (WBE) are afforded the maximum opportunity to participate in the performance of contracts, in excess of \$100,000, let by the Corporation. The Corporation commits itself to a goal oriented Contract Compliance Program which assures that Minority Business Enterprises and Woman Business Enterprises are considered in awarding contracts for goods, services and construction. Furthermore, it is the policy of the Corporation that

# ALBANY CSO POOL COMMUNITIES CORPORATION

contractors and subcontractors utilize minority and women labor to the greatest extent feasible. The MWBE policy of the corporation shall not supersede any MWBE requirements placed in the corporation by any grantee of institution providing financing to implement LTCP projects.

- A. The subcontracting participation goals for Corporation procurements are:
  - o to award 6% of the total dollar value of the contract to a certified MBE.
  - o to award 6% of the total dollar value of the contract to a certified WBE.
  
- B. The workforce goals for Corporation procurements are as follows:
  - o 6% of the total workforce should be minorities.
  - o 6% of the total workforce should be women.
  
- C. The Contractor's MWBE responsibilities include, but are not limited to, the following:
  - a. Submit to the Corporation's Procurement Officer a completed Schedule of MBE/WBE and Labor Performance or Request for Waiver within fifteen (15) days of receiving the Notice of Award.
  - b. Prior to being issued a Notice to Proceed, submit evidence of MBE/WBE contracts proposed to the Corporation's Procurement Officer.
  - c. Immediately notify the Corporation's Procurement Officer of any changes during the project, especially if the change affects the Schedule of MBE/WBE and Labor Performance submitted for the project.
  - d. Make good faith efforts to replace an MBE/WBE subcontractor that is unable to perform successfully with another MBE/WBE.
  - e. Notify the Procurement Officer of any suspected instances of companies fraudulently claiming MBE/WBE status.
  - f. If possible, provide any needed technical assistance to MBE/WBE firms under subcontract.
  - g. If possible, design payment schedules to minimize cash flow problems faced by MBEs/WBEs.
  - h. Maintain for three years such records as are necessary to determine compliance with MBE/WBE obligations and to submit regular reports to enable the Corporation's Procurement Officer to monitor this compliance.
  - i. Submit quarterly utilization reports to the Corporation's Procurement Officer for review. The reports must detail the total number of hours worked, total minority /female labor hours and payments made to MBE and WBE firms.
  
- D. The Schedule of MBE/WBE and Labor Performance must detail:
  - a. The contractor's name, address, phone number, federal identification number and the total dollar value of the contract.
  - b. Whether the contract is a joint venture.
  - c. The MBE and WBE goal for the contract.

# ALBANY CSO POOL COMMUNITIES CORPORATION

- d. A brief description of each proposed subcontractor, including the name, address, phone number, federal identification number and the total dollar amount of each subcontractor.
- e. An estimate of the total number of hours to be worked on the project.

E. Contractors which determine that the subcontracting and/or labor participation goals must cannot be achieved must request a waiver within fifteen (15) business days of receiving the Notice of Award. The request must justify why the firm cannot accomplish the subcontracting and/or labor participation goals established for the project. The justification must detail actions taken to solicit MBE/WBE subcontractors, minority or female labor participation and the impediments encountered. Each waiver request will be evaluated individually. Submission of the request for waiver does not guarantee the requirements will be waived. Additional information or supporting documentation may be required to determine a contractor's good faith effort.

- F. Each Minority Business Enterprise/Woman Business Enterprise shall:
- a. Establish through certification that the company is a bona fide MBE/WBE. The Division of Affirmative Action reviews MBE/WBE eligibility status for contractors and subcontractors.
  - b. Exhibit an interest in bidding a particular project by attending pre-bid conferences and/or by responding timely to contract solicitations for bid quotations prior to bid date.
  - c. Be responsible for entering into all necessary contractual agreements.
  - d. Arrange for and supervise contract performance.
  - e. Secure equipment, materials and crew sufficient to complete their contract or subcontract.
  - f. Provide bonding, insurance and collateral as required for surety in contract performance.
  - g. Authorize payrolls, payments and reports as required for routine compliance.
  - h. The County will accept MBE/WBE Certifications made by other governmental agencies which are in compliance with our DBE policy.

G. If a contractor cannot meet the WBE/MBE participation goals, he must document to the Corporation's Procurement Officer, that he has made all positive efforts to achieve it. Failure to meet the goals or to document that all positive efforts have been made to achieve it may result in the County invoking any legal or equitable remedy available to the Corporation for breach of contract including withholding future payments under the contract involved; disqualification of the contractor from future contracting opportunities for a period not to exceed two years; and cancellation of the contract.

A decision by the Corporation's Procurement Officer to invoke the above sanctions shall be issued in writing by registered mail. The contractor shall have ten (10) days from receipt of the decision to appeal the Procurement Officer's decision to the Corporation's Board of Directors. Both sides of the dispute shall have the opportunity to be heard at a meeting of the Board to be held within ten (10) days of the receipt of an appeal, and the Board shall send a final decision to

# ALBANY CSO POOL COMMUNITIES CORPORATION

both sides within ten (10) days by registered mail (or hand delivery in the case of the Procurement Officer's copy).

H. In order to qualify as an MWBE in accordance with the provisions set force by this policy, the subcontractor must be certified as a Minority Owned or Women Owned businesses by the New York State Division of Minority and Women's Business Development (DMWBD).

8. Except when directed by the Corporation's Board of Directors, no solicitation of written proposals or quotations shall be required under the following circumstances:

A. Emergencies: an emergency exists if the delay caused by soliciting quotes would endanger the health, welfare, or property of any person. Approval of the President or the Chair of the Board of Directors of the Corporation is necessary, which shall be documented and shall also include a description or the facts giving rise to the emergency;

B. Sole source procurements: A "sole source" means a situation where (i) there is only one possible source from which to produce goods and/or services available in the marketplace, (ii) no other goods and/or services provide substantially equivalent or similar benefits, and (iii) considering the benefits, the cost to the Corporation is reasonable;

C. Goods purchased from agencies for the blind or severely handicapped;

D. Goods purchased from correctional facilities;

E. Goods purchased from another governmental agency;

F. Goods purchased at auction;

G. Goods purchased for less than \$500;

H. Service contracts for less than \$500

I. Professional service contracts for less than \$2,000.

## 9. General Provisions.

A. **Documentation.** All information gathered in complying with the procedures of this Policy shall be preserved and filed with the documentation supporting the award of the contract to the provider. Such documentation shall include:

- i. A record of all solicitations for alternative proposals or quotations, the response (if applicable), and any determinations pursuant thereto shall be maintained in the procurement file.
- ii. For each procurement by the Corporation, the President of the Corporation or authorized designee shall set forth in writing the category of procurement that is being made and what method of procurement is specified.
- iii. Whenever an award is made to other than the lowest responsible dollar offeror the reasons for doing so shall be set forth in writing and maintained in the procurement file.

# ALBANY CSO POOL COMMUNITIES CORPORATION

- iv. 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.

B. **Unintentional Failure to Comply.** The unintentional failure to comply with the provisions of GML § 104-b shall not be grounds to void action taken or give rise to a cause of action against the Corporation or any Director or officer thereof.

C. **Annual Review.** This policy shall be reviewed annually by the Board of Directors at its organizational meeting or as soon thereafter as is reasonably practicable.