

SULLIVAN COUNTY LAND BANK CORPORATION

PROCUREMENT POLICY

SECTION 1. PURPOSE AND AUTHORITY.

The purpose of this Procurement Policy (the "Policy") is to ensure the prudent use of funds of the Sullivan County Land Bank Corporation, to facilitate the acquisition of goods and services of maximum quality at the lowest cost and to guard against favoritism, improvidence, extravagance, fraud and corruption. Specifically, the expenditure of funds must relate to an enumerated power, duty or purpose of the Land Bank and may not be spent to support or offset private or personal interests of an Officer, Director, employee or other affiliate of the Land Bank.

Land Bank discretionary funds shall not be used for any expense that personally benefits a member, employee, or officer. Examples of improper uses of discretionary funds include, but are not limited to, the following: (i) purchases of alcohol or tobacco products; (ii) renewal of professional licenses for Land Bank employees; (iii) purchases of flowers, gifts, or cards for Land Bank members, officers, or employees; (iv) celebrations for special occasions that do not directly relate to a public purpose of the Land Bank; and (v) personal use of Land Bank vehicles, unless properly documented for tax purposes.

This Policy has been developed to comply with the New York Public Authorities Law §2824(1)(e).

SECTION 2. DEFINITIONS.

As used herein, the following terms shall have the meaning set forth below.

- A. "Audit Committee" shall mean the audit committee of the Land Bank.
- B. "Board" shall mean the Board of Directors of the Land Bank.
- C. "Chair" shall mean the Chair of the Board.
- D. "Executive Director" shall mean the Executive Director of the Land Bank, or in the event of a vacancy, the Chair.
- E. "Executive Law" shall mean the New York State Executive Law as amended from time to time.
- F. "Independent Contractor" shall mean a person, firm or corporation performing Professional Services for the Land Bank pursuant to a written agreement.
- G. "Land Bank" or "SCLBC" shall mean the Sullivan County Land Bank Corporation.
- H. "Minority-Owned Business Enterprise" shall have the same meaning herein as is set forth in Executive Law § 310(7).
- I. "Professional Services" shall mean accounting, legal, medical, insurance brokerage and other such services provided by a formally certified member of a professional body; provided, however, that "Professional Services" shall not include any services performed for the Land Bank by its employees within the scope of their employment responsibilities.
- J. "Women-Owned Business Enterprise" shall have the same meaning herein as is set forth in Executive Law § 310(15).

SECTION 3. DOCUMENTATION.

Each action taken in connection with the procurement of goods and services must be documented. This includes circumstances when an award is made to other than the lowest responsible offeror. In that instance, the determination must be supported by documentation that justifies the award and sets forth the reasons why the award furthers the purposes of this Policy.

SECTION 4. ADMINISTRATION AND REVIEW OF PROCUREMENT.

- A. The Executive Director shall be responsible for the administration of this Procurement Policy.
- B. Administration of the Policy includes:
 - i. Determining the classification of purchases;
 - ii. Confirming authorization in the budget;
 - iii. Implementing and monitoring purchasing/procurement policies;
 - iv. Soliciting, administering, advertising and opening all competitive bids;
 - v. Negotiating and issuing purchase orders; and
 - vi. Developing and implementing an adequate internal control structure to provide a satisfactory level of accountability based on maintaining a proper paper trail, database or electronic record providing transaction descriptions, amounts, dates and other relevant information.
- C. The Audit Committee shall be responsible for monthly reviews of procurement decisions. The Audit Committee shall provide written reports to the Board with regard the results of such monthly reviews on a quarterly basis.

SECTION 5. PROFESSIONAL SERVICE CONTRACTS.

- A. The Executive Director may retain Independent Contractors to perform Professional Services based on the following considerations:
 - i. The amount of time anticipated to perform the services;
 - ii. The degree of special skill to perform the services;
 - iii. The availability of SCLBC employees who possess the skills needed to perform the services;
 - iv. The expense of training Land Bank employees to perform the services, as well as the future benefits to the Land Bank of such training;
 - v. The availability of Independent Contractors and the expense of using them;
 - vi. A requirement that the services be rendered by independent professionals, e.g. auditors' opinions or legal opinions;
 - vii. The effect of the use of Independent Contractors on other agreements and operations of the Land Bank;
 - viii. The extent to which the Land Bank has successfully used Independent Contractors in the past for the services to be performed; and
 - ix. The desire to ensure that the Land Bank conducts its operations in the most effective and efficient manner.

- B. Selection of Independent Contractors shall be made on a competitive basis; provided, however, that non-competitive selection may be made if:
 - i. The total amount of the contract is not expected to exceed \$5,000; or
 - ii. The Board determines, in writing, that competition would not be prudent or appropriate under the circumstances.
- C. Where selection is made on a competitive basis, the Executive Director shall request detailed Requests for Proposals (RFPs) from at least three (3) Independent Contractors known to have experience in the type of service to be performed. If the total value of the contract is expected to exceed \$5,000, such proposals shall be in writing. Proposals shall be evaluated on the basis of factors such as the Independent Contractor's experience, reputation, technical qualifications, financial condition, past performance, size, quality and availability of staff, identity of supervisory personnel, possible conflicts of interest, proposed scope of work and proposed fee or commission. No single factor shall be controlling. The Executive Director shall select the proposal which is most favorable on an overall basis; provided, however, the Executive Director may reject any or all proposals if they consider such action to be in the best interests of the Land Bank.
- D. Requests for Qualifications (RFQs) are appropriate for retention of one Independent Contractor to provide a defined type or scope of services required as the need arises or to select professional services to be rendered at pre-established rates.
- E. Inability to Obtain Requisite Quotes. If the Land Bank is unable to obtain the required number of proposals or quotations, the Land Bank will retain documentation of the process undertaken. In no event shall the failure to obtain a proposal be a bar to the procurement of the good or service.
- F. The following contracts for Professional Services shall require prior approval of the Board by resolution:
 - i. A contract for services that are expected to be rendered over more than one year; or
 - ii. A contract for Personal Services that is likely to result in total payment to the Independent Contractor in excess of \$5,000 per year and is not in the ordinary course of the Land Bank's business of maintaining, managing and operating the properties of the Land Bank.
- G. Procurement of insurance brokerage services shall be deemed to be a contract for Professional Services. Notwithstanding the foregoing, the entry into actual contracts for insurance shall not be subject to requirements of this Policy.

SECTION 6. GOODS AND OTHER SERVICES.

- A. Up to \$5,000. With respect to contracts with a value up to \$5,000, the Executive Director, in their discretion, may enter into a contracts for goods and services (other than Professional Services) on behalf of the Land Bank without obtaining quotations or the approval of the Board if the value of such contract is between \$0 and \$5,000; provided, however, that (i) the category and amount of the expenditure is provided for the budget, (ii) any such contract is not part of a

series of related contracts with the same vendor, and, (iii) contract is disclosed to the Board at the next scheduled meeting of the Board.

- B. Greater than \$5,000. With respect to contracts with a value of more than \$5,000, the Executive Director shall enter into a contract for goods and services (other than Professional Services) only on a competitive basis, based on “estimated” or “actual value”, as follows:
- i. With respect to any contract for an amount between \$5,001 - \$10,000, the Land Bank shall solicit at least three (3) informal quotations utilizing resources reasonably likely to identify the highest quality and lowest price of the particular good or service, including, but not limited to, newspaper and magazine advertisements, internet searches, catalogs, chamber of commerce recommendations and the prior experience of the Land Bank. The Land Bank shall create and maintain a written or digital record of the informal quotations solicited and received for such purchases.
 - ii. With respect to any contract for an amount greater than \$10,000, the Land Bank shall issue of request for proposals (RFPs) which shall require written responses.
 - iii. Each contract for an amount over \$5,000 shall be approved by resolution of the Board prior to entering into such contract.
- C. Inability to Obtain Requisite Quotes. If the Land Bank is unable to obtain the required number of proposals or quotations, the Land Bank will retain documentation of the process undertaken. In no event shall the failure to obtain a proposal be a bar to the procurement of the good or service.
- D. Awarding Contracts. The award of a contract for goods or services (other than Professional Services) shall be made to the lowest priced responsible offeror which meets the required specifications. In assessing whether an offeror is responsible, the Land Bank shall consider all relevant factors including the offeror's capability to complete the contract, financial status, past performance, experience, reliability, and integrity.
- E. Award Based on “Best Value”. Notwithstanding the above, the Land Bank may award a contract based on "best value." "Best value" is defined for this purpose as a basis for awarding contracts to the offeror which optimizes quality, cost, and efficiency. In assessing best value, non-price factors may be considered including, but not limited to, the unique or outstanding qualifications of the offeror (including past experience with a particular issue or familiarity with Land Bank operations) and the reliability, efficiency of operation, difficulty/ease of maintenance, useful lifespan, and environmental impact of a product or practice, as applicable.

SECTION 7. CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS OR QUOTATIONS ARE NOT IN THE BEST INTEREST OF THE LAND BANK.

Solicitation of alternative proposals or quotations are not required in the following circumstances, if the Executive Director determines that such solicitation is not in the best interests of the Land Bank:

- A. Emergency Purchases. In the case of emergency, goods or services may be purchased immediately without competitive procedures. An emergency is an unanticipated occurrence

beyond the control of the Land Bank that (1) threatens the life, health, safety or welfare of any person; (2) threatens the continued use or function of any Land Bank's property; or (3) is likely to cause damage to Land Bank's property if immediate action is not taken.

- B. Sole Source. Where there is only one source available for the required goods or service.
- C. Second-Hand Goods. The purchase of surplus or second-hand goods from any source.
- D. Experimental Projects. If the Land Bank wishes to test a new product or technology or evaluate a new source for a product or technology, the [Executive Director] may award a contract without competitive procedures, provided the contract is limited to the purchase of such goods or services that are necessary to conduct the experiment or test.

SECTION 8. CONSTRUCTION CONTRACTS.

Notwithstanding anything to the contrary herein, pursuant to the Not-for-Profit Corporation Law Section 1617, the Land Bank shall not award any construction, demolition, renovation or reconstruction contract greater than \$10,000 except to the lowest bidder who, in its opinion, is qualified to perform the work required and who is a responsible offeror.

SECTION 9. POLICY REVIEW.

The Governance Committee of the Land Bank shall review this Policy annually. Any proposed amendments must be approved by resolution of the Board.

SECTION 10. CONTRACT PROVISIONS.

- A. All contracts shall be in writing and shall be executed by the Executive Director.
- B. All contracts with a value greater than \$5,000 shall be approved by the Board prior to execution by the Executive Director. The form of every contract shall be approved as to form by the Land Bank's counsel prior to execution.
- C. Contracts which require a contractor to perform services on premises owned or under the control of the Land Bank shall require proof of Workers' Compensation and proof of liability insurance naming the Land Bank as an additional insured. Such contracts shall also provide that the contractor indemnify the Land Bank for the negligent acts and omissions of the contractor's employees. When appropriate and at the discretion of the Board, these contracts may further require the contractor to provide proof of environmental pollution insurance.
- D. A W-9 Form must be completed for all individuals providing Professional Services to the Land Bank.
- E. Contracts shall detail:
 - i. The goods to be obtained or scope of services to be performed,
 - ii. The cost of the goods or the amount of compensation for the services,
 - iii. The timing of delivery or scheduling of project phases and completion dates,
 - iv. Terms of payment,
 - v. The preconditions for receiving payment from the Land Bank,
 - vi. Procedures for termination of the contract, and,

- vii. Any other provisions the Board deems necessary or appropriate for each particular contract.
- F. In addition, if performance of a particular procurement contract will require the use of subcontractors, the contract shall require the contractor to attempt to secure participation by Minority Business Enterprises and to report such efforts to the Land Bank pursuant to Article 15-A of Executive Law.

SECTION 11. PROMOTION OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES.

It is the goal of the Land Bank to award a fair share of procurement contracts to Women and/or Minority-Owned Business Enterprises. The Land Bank also seeks to award contracts to those vendors who have evidenced compliance with the laws of the State of New York prohibiting discrimination in employment. The Land Bank recognizes that awarding contracts to those firms who have demonstrated that they do not discriminate in employment may achieve this goal.

- A. For all procurement contracts the cost of which is expected to exceed \$25,000, the following shall apply:
 - i. Offerors shall submit to the Land Bank data regarding the race and sex of their partners, members, and employees by job category.
 - ii. All offerors with fifty or more employees shall submit to the Land Bank a copy of their affirmative action plan. The Affirmative Action Officer or other designated officer or employee of the Land Bank shall review such plan. If the Land Bank deems an offeror's plan unacceptable, the Land Bank shall reject the offeror's bid regardless of bid placement.
 - iii. Offerors with less than fifty (50) employees shall submit a statement of commitment to equal employment opportunity and affirmative action signed by the offeror.
 - iv. Offerors shall be encouraged to include with their bids proposals to demonstrate that their selection will achieve the goals of this paragraph, such as proposals for joint ventures with Women or Minority Business Enterprises.
- B. A designated officer or employee of the Land Bank shall prepare and maintain a list of Minority Business Enterprises by area of expertise. When soliciting bids and proposals, qualified firms on the list shall be included in the pool of firms receiving the bid solicitation.
- C. In selecting an offer with no Women or Minority-Owned Business Enterprises bidders, after determining that offerors are fully qualified and that goods or services are fairly and reasonably priced, the Executive Director shall consider the materials submitted in Subsection A, above, with preference given to the offeror who best complies with the Land Bank's goals for women and minority participation and nondiscrimination.