



ROCHESTER LAND BANK CORPORATION

PROCUREMENT POLICY

SECTION 1. APPLICABILITY, PURPOSES

A. Applicability. This Procurement Policy ("Policy") shall apply to the procurement of goods and services by the Rochester Land Bank Corporation ("Land Bank") paid for by the Land Bank for its own use and account.

B. Purpose. The primary objectives of this Policy are to assure the prudent and economical use of public monies in the best interests of the Land Bank, 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.

C. Definitions.

1. **Minority-Owned Business Enterprise:** A for-profit business concern that is certified by New York State as an MBE (<http://esd.ny.gov/MWBE.html>).

2. **Women-Owned Business Enterprise:** A for-profit business concern that is certified by New York State as a WBE (<http://esd.ny.gov/MWBE.html>).

3. **Disadvantaged Business Enterprises (DBE):** A for-profit business concern that is certified by the New York State Department of Transportation (NYSDOT) as a DBE (<https://www.dot.ny.gov/main/business-center/civil-rights/dbe?nd=nysdot>).

SECTION 2. PROCEDURES

- A. Up to \$5,000 per instance. A contract may be awarded in the discretion of the Executive Director, or, in the absence of the Executive Director, the Chair of the Land Bank, or in her/his absence, the authorized designee of the Chair.
- B. Greater than \$5,000 to \$10,000 per instance. Upon receipt of documented oral quotations or written/fax/email quotations from at least three (3) vendors, a contract may be awarded in the discretion of the Executive Director, or, in the absence of the Executive Director, the Chair of the Land Bank, or in her/his absence, the authorized designee of the Chair.
- C. Greater than \$10,000 per instance. A contract shall be awarded to the lowest responsible bidder in the opinion of the Board.
- D. Greater than \$15,000 estimated annualized expenditure: Every solicitation for a procurement involving an estimated annualized expenditure in excess of fifteen thousand dollars (\$15,000) shall be conducted in accordance with the restrictions on contacts and lobbying rules in accordance with the provisions of the NYS Procurement Lobbying Act contained in Section 139-j of the NYS State Finance Law ("Anti-Lobbying Rule"). Every solicitation for a procurement that is subject to the Anti-Lobbying Rule shall abide by the provisions of Section 139-j, including but not limited to:
- [1]. Notifying prospective bidders of the Rules's restrictions on contacts with the Land Bank during the solicitation and bidding process and shall identify the Executive Director (or another contact person with knowledge of the procurement who is designated by the Executive Director) as the sole Land Bank official authorized to be contacted during the bidding process, and require bids to be accompanied by a written statement acknowledging to committing to abide by such restrictions;
 - [2]. Requiring the Executive Director or other designated contact to develop and keep in the Land Bank's procurement file a detailed record of each contact with a bidder regarding procurement.
 - [3]. Inquiring about and factoring into the review process whether a bidder is a Non-Responsible Offeror. A finding by the Land Bank or some other governmental agency or public authority that a bidder has knowingly and willfully violated the the Anti-Lobbying Rule shall result in a determination of non-responsibility for such bidder and its subsidiaries, and any related or successor entity with substantially similar function, management, board of directors, officers and shareholders (hereinafter, for the purposes of this paragraph "Non-Responsible Offeror." A procurement contract shall not be awarded to a Non-Responsible Offeror, unless the Executive Director or other designated contact person finds, and confirms such finding in writing, that the award of the procurement contract to such Offeror is necessary to protect public property or public health or safety, and that the Offeror

is the only source capable of supplying the required article of procurement within the necessary timeframe.

Unless the Board designates another Boardmember, officer, or employee with regard to a particular procurement, the Chairperson of the Governance Committee of the Board of Directors shall be responsible for reviewing and investigating allegations of impermissible contact during a procurement that is subject to the Anti-Lobbying Rule, and to impose sanctions in instances where violations have occurred in accordance with Section 139-j(9) of the State Finance Law. The Chairperson shall file and retain in the Land Bank's procurement file a record of each improper contact or other violation of the Anti-Lobbying Rule. The Chairperson shall develop procedures for conducting these duties, which may be based on the guidelines prepared by the NYS Advisory Council on Procurement Lobbying and available at

<http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/ModelLang.html>.

E. Summary of procurement rules. A summary of the Land Bank's applicable procurement policies and prohibitions shall be incorporated into every solicitation of proposals, bid documents, or specifications for procurement contracts.

F. Non-collusion certification. Every bid or proposal submitted to the Land Bank as part of a competitive bidding process shall contain a certification that there has been no unlawful collusion involved in accordance with Section 2878 of the NYS Public Authorities Law.

G. Exceptions. Bids or quotations shall not be required for the purchase of commodities, equipment, goods or construction, demolition, renovation, and reconstruction services made through:

[1]. New York State, Monroe County, or City of Rochester Contracts. When the Land Bank is able to procure commodities, equipment, goods or services through New York State, Monroe County, or City of Rochester contracts, it shall be unnecessary to obtain bids or quotations.

[2]. Emergency Procurements. In the event of an emergency, it shall be unnecessary to obtain bids or quotations. An emergency shall be deemed to exist if the delay caused by soliciting quotes would endanger health, welfare, or property. Approval by the Executive Director, or, in the absence of the Executive Director, the Chair of the Land Bank, or in her/his absence, the authorized designee of the Chair shall be necessary, which shall be documented and shall also include a description of the facts establishing the emergency.

[3]. Sole Source Procurements. In the event of a sole source supplier, it shall be unnecessary to obtain bids or quotations. A “sole source” means a situation where (i) there is only one possible source from which to procure the specified goods and/or services, (ii) no other goods and/or services provide substantially equivalent or similar benefits, and (iii) considering the benefits, the cost to the Land Bank is reasonable.

[4]. Utilities and Affiliate Transactions. The purchase of utilities and inter-affiliate transactions are excepted from proposal/quotation requirements.

[5]. Unavailability of three (3) vendors. It shall be unnecessary to obtain bids or quotations in the event of the unavailability of three (3) vendors who are able or willing to provide a quote.

H. Basis for the Award of Contracts. The Land Bank may reject all bids. The Land Bank may reject any bid, if, in the judgment of its authorized decision maker, the business and technical organization, plant, resources, financial standing, or experience of the bidder justifies such rejection in view of the work to be performed. In making any such determination, the relevant factors considered shall include, without limitation:

1. Delivery requirements;
2. Quality requirements;
3. Quantity requirements;
4. Past vendor performance and/or experience; or
5. Disqualification of Non-Responsible Offeror pursuant to Section 2.D.3, above.

I. Documentation.

1. A record of all solicitations for proposals or quotations, the response (if applicable), and any determinations pursuant thereto shall be maintained in the Land Bank’s procurement file.

2. For each procurement by the Land Bank, the Executive Director (or, in the absence of the Executive Director, the Chair, or in her/his absence, the authorized designee of the Chair) shall set forth in writing the category of procurement that is being used and the basis for the award.
3. Whenever an award is made to other than the lowest responsible bidder the reasons for so doing shall be set forth in writing and maintained in the procurement file for at least six (6) years.
4. Whenever the specified number of quotations cannot be secured, the efforts to obtain quotations shall be documented and maintained in the procurement file.

SECTION 3. PROFESSIONAL SERVICES.

Professional Services shall mean services which require special education and/or training; involve specialized expertise; or are licensed, including, without limitation, legal services, accounting services, brokerage services, appraisal services, and engineering services. Professional Service contracts often involve a relationship of personal trust and confidence.

- A. In the selection of a provider of Professional Services up to \$10,000 per instance, the provider may be selected by the Executive Director, or, in the absence of the Executive Director, the Chair of the Land Bank, or in her/his absence, the authorized designee of the Chair.
- B. In the selection of a provider of Professional Services for a contract which exceeds \$10,000 the Land Bank shall issue a Request for Proposals. The Board may exercise its discretion and apply its judgment regarding any aspect of the Request for Proposals, the evaluation of proposals received, and the negotiation and awarding of any contract resulting from the Request for Proposals.
- C. The Land Bank may contract for only portions, or not enter into an agreement for any, of the Professional Services contemplated by the proposals solicited under this Policy. The Land Bank may select the proposal that best satisfies its interests without exclusively relying on price or any other single factor. The Land Bank may use such criteria in the selection of a provider of Professional Services as it deems most appropriate.

SECTION 4. INSURANCE.

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 5. EFFECT OF OTHER PROCUREMENT REQUIREMENTS.

Where the procurement of a specific good or service is accomplished using funds other than the funds of the Land Bank and such funding sources specify different or more restrictive procurement requirements than are provided for in this Policy, the procurement requirements of the funding source shall supersede the requirements of this Policy.

SECTION 6. UNINTENTIONAL FAILURE TO COMPLY.

The failure to comply with this Policy shall not be grounds to void any contract nor shall the same be the basis of any cause of action against the Land Bank or any officer thereof.

SECTION 7. WOMEN, DISADVANTAGED AND MINORITY-OWNED BUSINESSES.

The Land Bank shall use its best efforts to afford Women-Owned Business Enterprises, Disadvantaged Business Enterprises, and Minority-Owned Business Enterprises the maximum practicable opportunity to participate in the performance of this purchasing and procurement program of the Land Bank. If performance of a particular procurement contract will require the use of subcontractors, the Land Bank shall consider requiring the contractor to act affirmatively to secure such participation by Women- Owned Business Enterprises, Disadvantaged Business Enterprises, and Minority-Owned Business Enterprises and report such efforts to the Land Bank.