

OGDENSBURG BRIDGE AND PORT AUTHORITY
PROCUREMENT CONTRACT GUIDELINES

Approved at July 9, 2015, Board Meeting

WHEREAS, the Ogdensburg Bridge and Port Authority, (hereinafter referred to as the “Authority”) is a Public Authority and Public Benefit Corporation, the Members or Directors (hereinafter collectively referred to as the “Board”), of which consist of persons appointed by the Governor of the State of New York, upon the advice and consent of the New York State Senate; and

WHEREAS, Chapter 564 of the Laws of 1988, and specifically Subdivision 2 thereof, which amends §2879 of the Public Authorities Law, requires that the Authority adopt by resolution comprehensive guidelines which detail the Authority’s operative policy and instructions regarding the use, awarding, monitoring, and reporting of procurement contracts; and

WHEREAS, the Authority intends to comply with this requirement of law;

NOW, THEREFORE, LET IT BE RESOLVED, that the following constitutes the comprehensive guidelines setting forth the Authority’s operative policy and instructions regarding the use, awarding, monitoring, and reporting of procurement contracts.

PROCUREMENT CONTRACT GUIDELINES

- I. TITLE. The following comprehensive guidelines detailing the operative policy and instructions of the Ogdensburg Bridge and Port Authority (referred to as the “AUTHORITY”) regarding the use, awarding, monitoring, and reporting of procurement contracts, shall be known as “Procurement Contract Guidelines.” They shall also be referred to herein as the “Guidelines.”
- II. DEFINITIONS.
 - A. Procurement Contract – any written agreement for the acquisition of goods or services of any kind, in the actual or estimated amount of \$5,000 or more.
 - B. Contract for Goods and Services – any written agreement to provide a good or service (other than those hereinafter defined as personal services) pertaining to vehicle or building operation and maintenance, office equipment and supplies, fuel and consumable liquids, printing, promotional materials, or any other similar item or items.
 - C. Contract for Personal Services – any written agreement to provide a service, including but not limited to legal, accounting, management consulting, investing, banking, planning, training, statistical, research, public relations, architectural, engineering, surveying, or other personal services of a consulting, professional, or technical nature, for a fee, commission, or other compensation by a person or persons not providing such services as an officer or employee of a State agency or public benefit corporation.
 - D. Minority or Women-Owned Business Enterprises:

1. For the purpose of these Guidelines, a minority business enterprise (MBE) is any business enterprise, including a sole proprietorship, partnership, or corporation that is:
 - a. At least 51 percent owned by one or more minority group members or in the case of a publicly-owned business at least 51 percent of the common stock or other voting interests of which is owned by one or more minority group members;
 - b. An enterprise in which the minority ownership is real, substantial, and continuing;
 - c. An enterprise in which the minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
 - d. An enterprise authorized to do business in New York State, independently owned and operated, and not dominant in its field.

2. For the purpose of these Guidelines, a minority group member means a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
 - a. Black persons having origins of any of the Black African racial groups not of Hispanic origin;
 - b. Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
 - c. Asian and Pacific Islander persons having origins in any of the Far East, Southeast Asia, the Indian sub-continent, or the Pacific Islands; or
 - d. Native American persons having origins in any of the original peoples of North America.

3. For the purpose of these Guidelines, a women-owned business enterprise (WBE) means a business enterprise, including a sole proprietorship, partnership, or corporation which is:
 - a. At least 51 percent owned by one or more United States citizens or permanent resident aliens who are women or in the case of a publicly-owned business at least 51 percent of the common stock or other voting interests of which is owned by a United State citizen or citizens or a permanent resident alien or aliens who are women;
 - b. An enterprise in which the ownership interest of women is real, substantial, and continuing;
 - c. An enterprise in which the women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
 - d. An enterprise authorized to do business in New York State, independently owned and operated, and not dominant in its field.

III. INTENT. It is the intent of the Authority that to the fullest extent practical, and except as otherwise provided for herein, the selection of procurement contractors shall be from the widest available selection of responsible procurement contractors for a particular good or service.

IV. RESPONSIBILITY FOR PROCUREMENT CONTRACTS. The Executive Director of the Authority or his duly appointed designee has the overall day-to-day responsibility and oversight regarding the awarding and monitoring of procurement contracts. Personal services contractors

shall be utilized in those areas where the Authority Board determines that such services may not reasonably be obtained by staff members of the Authority or by officers or employees of another State agency or public corporation. In making such determination, facts such as timing, costs, qualifications, or the nature of the services to be rendered shall be taken into consideration.

V. REQUIREMENTS REGARDING THE SELECTION OF PROCUREMENT CONTRACTORS.

A. Personal Services.

1. The selection of personal service contractors shall be on a competitive basis except that the Board may waive competition if it is in the best interest of the Authority for the Board to do so. The standard of "Best Interest of the Authority" may, but need not be based upon one or more of the following criteria for the selection of personal service contractors:
 - a. Confidentiality.
 - b. Specialized expertise or unusual qualifications; or services obtainable from one source only.
 - c. Historical relationship with the Authority, the continuation of which is in its best interest.
 - d. Specialized knowledge.
 - e. Geographical proximity to the Authority.
 - f. Lack of responsible competition, in the sole opinion of the Authority to perform the desired services.
 - g. Nature, magnitude, or complexity of services required.
 - h. Lack of Authority resources, support staff, specialized facilities, or equipment.
 - i. Lower cost.
 - j. Short-term or infrequent need for services.
 - k. Selection which is necessary or convenient to the operations of the Authority.
2. Any contract involving services to be rendered over a period in excess of one year shall require the approval of the Board by resolution, and an annual review of the contract by the Board.
3. A personal service contract shall require approval of the Board by resolution when the amount thereof exceeds \$10,000.
4. Legal services need not be awarded on a competitive basis.
5. A personal service contract over \$5,000, which is to be awarded on a non-competitive basis, shall require Board approval. Reasons for a non-competitive award should be stated in approving the motion or resolution.
6. A personal service contract of less than \$5,000 need not be awarded on a competitive basis nor approved by the Board unless for a period in excess of one year. Reasons for a non-competitive award should be recorded for audit purposes.
7. Exclusions: Project contractors for personal services which are paid for by the Authority's tenants/marine users or through grants from local, State, and/or Federal

sources are excluded from these guidelines and reporting requirements. Sources of funds other than Authority sources generally have requirements that must be complied with that are different than Authority guidelines.

B. Goods and Other Services.

1. Selection of contractors for goods and services other than personal services shall be made only on a competitive basis except as herein otherwise set forth. The level of competition and authorization shall depend upon the estimated or actual value of the goods or service as follows:
 - a. Authority purchases not exceeding \$1,000. The authority may purchase directly from a local vendor of its choice pursuant to the following conditions:
 - (1) All purchases must be approved in advance by the immediate supervisor for any item of a non-recurring nature.
 - (2) All purchases of recurring nature such as telephone service, fuel, and electric service are exempt from classification a(1).
 - (3) All purchases of a non-recurring nature not previously budgeted can only be approved when an offsetting cost or budget reduction can be realized.
 - (4) Supervisor is responsible for determining that a budget allocation (funds) is available prior to any purchase.
 - (5) All delivery receipts and invoices must be authorized by the departmental supervisor prior to Authority effecting payment.
 - b. Authority purchases in excess of \$1,000 but not exceeding \$2,500. No formal competitive bidding is required; however, a minimum of three telephone, internet, or written quotations must be solicited from responsible vendors in order to obtain the lowest price available. Please note, it is recommended that successful bidder's quote be obtained in writing. Names of vendors and price quotes must be recorded for audit purposes.
 - (1) All other purchasing procedures described in Section (a) above will be followed.
 - c. Authority purchases in excess of \$2,500 but not exceeding \$5,000. Same as Section (b) above, except a purchase order shall be issued and signed by the Executive Director or Chief Financial Officer.
 - d. Authority purchases in excess of \$5,000 but not exceeding \$10,000. Same as Section (c) above, except a written quotation must be submitted from responsible vendors. Quotations to be retained for audit purposes.
 - e. Authority purchases in excess of \$10,000 but not exceeding \$15,000. Same as Section (d) above, except specific Board approval is required.
 - f. Authority purchases in excess of \$15,000 shall be formally bid. Formally bid expenditures shall require an advertisement published once, not less than two weeks prior to the bid opening date, in one newspaper having a general circulation in the City of Ogdensburg. All such purchases in this category must have a minimum of three (3) bids solicited and specific Board authorization obtained pursuant to the following conditions:

- (1) Copy of the general specifications, proposal, and detailed specifications definitely worded as to grade, quality, quantity, delivery, and the date, hour, and place of the bid opening shall be forwarded to each responsible vendor from whom bids are requested. A minimum of three (3) bids shall be solicited.
 - (2) Bids shall be in writing and sealed and shall be opened publicly at the time and place of bid opening.
 - (3) A written tabulation of all bids received at the bid opening shall be prepared setting forth the identity of each bidder, the prices quoted, and all other pertinent information. Bids shall be tabulated by item number and unit price in such form as to afford a basis for strict comparison of the prices bid. Bids received subsequent to the time noticed for the bid opening shall be rejected and returned to the bidder.
 - (4) The Authority may make a contract award to the lowest responsible bidder whose commodity best meets the Authority's specifications and may prepare a purchase order addressed to such bidder.
 - (5) All bids, tabulations, documents, correspondence, and other information pertaining to each Authority purchase under the subdivision (f), together with copies of the purchase order to the lowest responsible bidder shall be forwarded to the Department of Audit and Control for payment.
- g. State contracts let by the Office of General Services should be utilized whenever possible as long as product quality, delivery time, quantity, and price are equal or better than those materials solicited locally by the Authority.

2. Competition may be waived:

- a. On an emergency basis when the safety of life or property or business interruption is involved. A written explanation of the nature of the emergency must accompany the purchase order/contract, explaining the need for sole source acquisition.
- b. When only one source is available. A written statement must accompany the purchase order/contract, explaining the need for sole source acquisition. The level of approval required for such waivers of competition as set forth in subsections 2(a) and (b) herein shall be Executive Director within Categories B, C, and D above, and the Board of Directors for Categories E and F.
- c. When public procurement arrangements are used, such as:
 - i. City, Country, or regional supply contracts.
 - ii. Federal GSA contracts.
 - iii. State OGS contracts.
- d. Under a warranty, when the Authority may be required to obtain service from a manufacturer-designated entity.
- e. When the best interest of the Authority is clearly served, as determined by the Executive Director or the Board.

3. Any contract for goods or services other than personal services, awarded for a period in excess of one year, shall require the approval of the Board by resolution, and an annual review of the contract by the Board.

VI. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES (“MBE/WBE”).

- A. Minority business enterprises and women-owned business enterprises shall be given full opportunity to compete in all Authority contracts.
- B. It is the policy of the Authority to foster and promote participation of certified minority business enterprises and women-owned business enterprises in its procurements and the development of such enterprises and to facilitate a fair share of the awarding of procurement contracts to such enterprises. In contracting, the Authority shall use its best efforts to give minority and women-owned business enterprises an opportunity to compete for Authority procurement, by soliciting or requesting offers from minority and women-owned businesses known to have experience in the types of goods or services, including professional services, being sought. Written solicitations or requests for bids or proposals for procurement contracts shall include an affirmative action statement. The Authority will consult with organizations that serve minority and women-owned business enterprises, will maintain lists, and will refer to known lists maintained by State agencies in an effort to reach minority and women-owned businesses.
- C. In any procurement where an MBE/WBE submits a low bid which is equivalent to a bid from non-MBE/WBE firm, the MBE/WBE firm, if determined responsible, will be given preference.

VII. PROCEDURES FOR COMPETITIVE SELECTION – PERSONAL SERVICES.

The procedures for competitive selection of personal services contracts when such method of selection is considered to be in the best interest of the Authority, is as follows:

- A. The Authority shall prepare a written statement containing a description of the services, the reasons why they are required, and the required or estimated schedule or duration of the services.
- B. A request for proposals (“RFP”) shall whenever practicable and desirable be sent to three or more firms as are in the best interest of the Authority to assure competition, including any MBE/WBE firms selected to receive the RFP pursuant to Authority MBE/WBE programs, unless there are less than three qualified firms or unless competition is waived as provided in the Guidelines.
- C. The RFP shall describe the services to be performed, any completion dates or time requirements, MBE/WBE requirements, if applicable, and the criteria to be utilized by the Authority in evaluating proposals; and shall contain a requirement for a cost proposal and the date, time, and place where proposals must be received.

- D. The Authority may select one or more proposers with which to interview after evaluation of the proposals received. The award shall be made to the proposer or proposers whose proposal(s) will be the most advantageous to the Authority. Price, qualifications, and other factors will be used as the basis for the decision.
- E. Architectural, Engineering, and Survey Contracts.
1. In the procurement of such architectural, engineering, and surveying services as the Authority determines should be received through the RFP process, the Authority shall evaluate current statements of qualifications and performance data. If desired, the Authority may conduct discussions with three or more professional firms regarding anticipated design concepts and proposed methods of approach to the assignment.
 2. The Authority shall then comply with the provisions of subparagraphs “A, B, and C” of Section 7 of the Guidelines.
 3. The Authority shall negotiate a contract with the highest qualified professional firm for architectural and/or engineering services and/or surveying services at compensation which the Authority determines in writing to be fair and reasonable. In making this decision, the Authority shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the Authority be unable to negotiate a satisfactory contract with the most qualified professional firm, that firm shall formally be terminated. The Authority shall then undertake negotiations with the second most qualified professional firm. Failing accord with the second most qualified professional firm, the Authority shall then undertake negotiations with the third most qualified professional firm. Should the Authority be unable to negotiate a satisfactory contract with any of the selected professional firms in order of their competence and qualification, it shall continue negotiations in accordance with this subparagraph until an agreement is reached.
 4. The provisions of this subparagraph “E” shall apply only to engineering and/or architectural services and/or surveying services contracts in excess of Twenty Five Thousand Dollars (\$25,000).
 5. Contracts for engineering, architectural, or surveying services involving lesser amounts may be entered into pursuant to the provision of this section or any other applicable provisions of the Guidelines.

VIII. PROVISIONS TO BE CONTAINED IN ALL PROCUREMENT CONTRACTS.

- A. Procurement contracts shall set forth the nature, quantity, if applicable, and monitoring of the work performed, the use of Authority supplies and facilities, the use of Authority personnel, or other provisions considered to be in the best interest of the Authority. All requirement of law shall be incorporated by reference in the Authority’s Procurement

contracts. Procurement contracts shall be awarded only to persons or firms deemed responsible to the Authority's Procurement documents, as well as capable and responsible.

The following types of provisions may be contained in all procurement contracts, except that any of the provisions listed which are inapplicable or unnecessary because of the nature or duration of services or goods to be delivered, the location or locations where they are to be performed or the type of compensation being paid therefor need not be included. Any other terms deemed applicable may be added.

1. Description of services.
2. Compensation.
3. Time for performance or date of completion.
4. Liability of contractor or consultant; indemnification of Authority.
5. Reports of contractor or consultant.
6. Ownership of plans, drawings, or other products of the performance of the services (professional services).
7. No assignments or subcontracts without the express written consent of the Authority.
8. Maintenance of records, accounts.
9. Right of Authority to inspect and/or audit books and records of contractor or consultant (professional services).
10. Insurance Requirements.
11. Termination.
12. Monitoring of the performance of services.
13. Use of Authority supplies, facilities, or property.
14. Use of Authority personnel.
15. All provisions required to be included in Authority contracts by Federal, State, or local laws, ordinances, codes, rules, or regulations.
16. Involvement of former officers or employees.

B. Contractors shall have the following responsibilities:

1. To perform the contract in accordance with its term;
2. To perform services required under a contract competently, efficiently, in a timely and first-class manner, at a reasonable cost and in a manner which is acceptable to the Authority, or to deliver goods or supplies in first-class condition, to the proper location, on a timely basis, and in a manner which is acceptable to the Authority.
3. To cooperate fully with Authority personnel who are directing, monitoring, or supervising the delivery of services or goods, or who are assisting in the delivery thereof.

IX. INVOLVEMENT OF FORMER OFFICERS OR EMPLOYEES.

No procurement contracts shall be entered into with former officers or employees of the Authority except by a resolution adopted by a majority of the Members of the Board upon showing that such contract is in the best interest of the Authority, and then only to the extent permitted by section 73 of the Public Officers Law, the Authority Code of Ethical Conduct concerning outside activities, and other applicable provision of law.

X. ANNUAL REPORT ON PROCUREMENT CONTRACTS.

- A. The Authority shall annually prepare and approve reports on procurement contracts which shall include the Guidelines, an explanation of the guidelines and any amendments thereto since the last annual report. Such report on procurement contracts may be part of any other annual report that the corporation is required to make. For the purposes of this report, only procurement contracts in the actual or estimated amount of \$5,000 need be included.
- B. Such report shall be submitted annually per regulatory requirements.
- C. Copies of the annual report are to be made available to the public upon reasonable request.

XI. THIRD PARTY RIGHTS; VALIDITY OF CONTRACTS.

- A. These Guidelines are intended for the guidance of officers and employees of the Authority only, and nothing contained herein is intended or shall be construed to confer upon any person, firm, or corporation any right, remedy, claim, or benefit under, or by reason, of any requirement or provision hereof.
- B. Nothing contained in the Guidelines shall be deemed to alter, affect the validity or, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of the Guidelines.

XII. MISCELLANEOUS.

- A. Where applicable, Federal, State, or local laws, ordinances, codes, rules or regulations containing requirements which are in conflict with or impose greater obligations upon the Authority than these Guidelines, then such requirements shall take precedence over those contained herein.
- B. Any specific provision of the Guidelines may be waived by the Chairman or Executive Director of the Authority or such individuals as they may designate, but only under extraordinary circumstances.
- C. The Authority shall not be precluded from adopting additional requirements relating to the matters covered by these Guidelines.

XIII. EFFECTIVE DATE.

The Guidelines shall be effective as of October 6, 2010.

**SUMMARIZED GUIDELINES
FOR GOODS AND OTHER SERVICES**

Category	Amount	Minimum Quotes Required	Purchase Order Required	Authorization Required
A	\$ -0- - \$1,000	None	No	Department Supervisor
B	\$1,001 - \$2,500	Three	No	Department Supervisor
C	\$2,501 - \$5,000	Three	Yes	Executive Director or CFO
D	\$5,001 - \$10,000	Three (Written)	Yes	Executive Director or CFO
E	\$10,001 - \$15,000	Three (Written)	Yes	Board Approval
F	Over \$15,000	Formal Bid	No	Board Approval

THE PROMPT POLICY STATEMENT OF THE
OGDENSBURG BRIDGE AND PORT AUTHORITY

ARTICLE I
STATEMENT OF PURPOSE

101. This Policy Statement is adopted pursuant to Section 2880 of the Public Authorities Law.

ARTICLE II
DEFINITION OF TERMS

201. Definitions: For the purpose of this policy statement, the following terms shall have the following meanings unless the context shall clearly indicate otherwise:

"Agency" shall mean the Ogdensburg Bridge and Port Authority.

"Contract" shall mean an enforceable agreement entered into by the Agency and a contractor, including purchase orders. Bond Resolutions and Purchase Agreements are not contracts within the meaning of this Section.

"Contractor" shall mean any persons or organizations providing goods, property, or services to the Agency pursuant to a contract.

"Designated Payment Department" shall mean that department within the Agency to which a proper invoice is to be submitted by a contractor.

"Prompt Payment" shall mean payment of a debt due and owing by the Agency before interest accrues thereon pursuant to the specifications herein.

"Proper Invoice" shall mean a written request for contract payment setting forth the description, price, and quantity of goods, property, or services provided by a contractor in such form and supported by such other substantiating documentation as the Agency may reasonably require.

"Receipt of Invoice" shall mean either:

(a) The date on which a proper invoice is received by the designated payment department.

(b) The date on which the Agency receives the purchased goods, property, or services covered by the proper invoice, whichever is later.

"Set off" shall mean the reduction by the Agency of a payment due to a contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the contractor to the Agency.

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ARTICLE III

RULES AND REGULATIONS

301. Payment Request Procedure: Most contractors who are owed money by the Agency shall send a proper invoice to the attention of Accounts Payable, the designated payment department of the Agency.

302. Schedule for Prompt Payment: The Agency will adhere to the following schedule for prompt payment:

(303) Once invoices are received, payment will be made within thirty (30) calendar days, excluding legal holidays, after receipt of a proper invoice.

(b) For contract with predetermined payment dates, payment will be made on each such date.

This schedule will not apply in those instances where payment is being delayed for any of the exceptions listed in Section 305 or tolled for any of the reasons listed in Section 306 of this policy statement.

304. Funds Available to Pay Interest Penalties: The Agency will pay penalties with operating monies earned.

305. Situations Which Justify Extension of Payment Time for Proper Invoices: The following facts or conditions constitute exceptions to the prompt payment schedule set forth in Section 302:

(a) Statutory or contract provisions requiring an inspection or an audit prior to payment.

(b) A requirement for State appropriation to authorize payment.

(c) A requirement for Federal Government examination of a proper invoice prior to payment.

(d) Extraordinary delay between the provision of goods, property, or services by a contractor and the receipt of a proper invoice by the Agency.

(e) Failure by a contractor to submit documents required by agreement prior to payment.

306. Reasons Which Justify the Tolling of Payment Time for Invoices: The following facts or conditions toll the prompt payment schedule set forth in Section 302:

(1) The existence of defects in the goods, property, or services delivered.

(2) The existence of defects in the invoice.

(3) Suspected improprieties of any kind.

307. Tolling Regulations: In order to toll the prompt payment schedule without penalty, the Agency has fifteen (15) days after the receipt

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of an invoice to send a contractor notification of defects or improprieties. Agency notification shall be in the form of a standardized letter. In the event the Agency fails to act within fifteen (15) days, once the defect or impropriety is corrected, the number of days allow for payment is reduced by the number of days between the fifteenth (15th) day and the date of notification. In the event that the Agency's contentions are proved unreasonable, the date by which contract payment shall be made is calculated from the date of receipt of invoice. For those contracts which provide for scheduled payments without an invoice, the same fifteen (15)-day regulations apply as above.

ARTICLE IV

REPORTS

401. Statement Filing: Within thirty (30) days of the adoption of this statement and of any amendments hereto, the Agency shall file copies with the State Comptroller, the State Director of Budget, the Chairman of the Senate Finance Committee, and the Chairman of the Assembly Ways and Means Committee.

ARTICLE V

MISCELLANEOUS PROVISION

501. Statement Amendment: The Agency shall have the power to amend this policy statement by promulgating amended rules and regulations at any time.

502. Contract Incorporation: The policy statement in effect at the time of the creation of a contract is hereby incorporated into and made a part of that contract.

503. Public Access: The Agency shall make copies of this policy statement, as well as the annual report, available to the public upon reasonable request at the Agency's main office.

In addition, the Agency shall provide upon request a copy of this policy statement to each contractor.

504. Inapplicability of Statute: The statute authorizing this statement is not applicable to the Agency's contracts with other governmental agencies, to interest on judgments rendered by a court against the Agency pursuant to any other statute or in situations where the Agency exercises a legally authorized set-off against all or part of a payment due a contractor.

505. Legal Processes: The Agency is under no liability to pay interest pursuant to the statute after a contractor has filed a claim or given notice of an intention to file a claim or commenced legal action for payment of interest.

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