

**TOWN OF COLONIE INDUSTRIAL DEVELOPMENT AGENCY**

**PROCUREMENT POLICIES AND PROCEDURES**

**POLICY #1**

**SUBJECT: Individuals Responsible for Purchasing for the Agency by Name and Title**

**PURPOSE:** Per General Municipal Law Section 104-b(2)(f), the Town of Colonie Industrial Development Agency (the “Agency”) is required to include in the Policy and Procedures Manual the list of individuals by name and title that are responsible for purchasing for the Agency. The following are designated as the individuals responsible for all Agency procurement.

Below is the current list of individuals responsible for purchasing by name and title.

Name	Title
Sean Maguire	Executive Director
P. Christopher Kelsey	Chief Financial Officer
Doug Sippel	Purchasing Officer

**POLICY #2**

**SUBJECT: Quotation and Bid Requirements for Purchases and Leases Over \$1,000**

**PURPOSE:** To define the procedure for obtaining and submitting quotes and bids to acquire goods and services beyond \$1,000 in value.

**POLICY:** It is Agency policy to ensure fair and consistent consideration of potential vendors offering goods and services to the Agency, and to meet State requirements for competitive bidding for goods and services required by the Agency to the extent such State requirements are applicable. As of the date of adoption of these Policies and Procedures, the Agency is not subject to the competitive bidding requirements of Section 103 of the General Municipal Law.

Minimum requirements for Quotes and Bids are as follows:

<b><u>Purchase and/or Total Lease Amounts with a purchase option</u></b> (Excluding Public Works Contracts)	<b><u>Quote and Bid Requirements</u></b>
\$1,000 – \$2,500	Agency does price check
\$2,501 - \$5,000	Three verbal quotes obtained and documented by the Agency.
Over \$5,000	Three or more written quotes, documented by the

	vendor, obtained by the Agency.
True Leases	True leases are defined as leases without the option to purchase. As True Leases are exempt from the competitive bid requirements, three written quotes will be required to insure the Agency obtains the best value for the lease dollars spent. The total annual cost of the lease will be used to evaluate the quotes received in awarding the lease. For the purposes of this provision, leases should be closed-end, with agreed upon residual values and mandatory turn-in at end of lease. Lease documentation should include negotiated price, residual value and term and payment amounts.
<b>Public Works Contracts</b> (Material and Labor)	
\$3,001 - \$10,000	Three verbal quotes obtained and documented by the Agency. Must have written contract.
Over \$10,000	Three or more written quotes, documented by the vendor, requested by the Agency. Must have written contract.
<p>Aggregate Amounts – In determining if an item for purchase meets the bid requirements, the Agency shall consider the reasonable expected aggregate amount of all purchases of the same commodities, services or technology to be made within the twelve-month period commencing on the date of the purchase. Purchases of commodities, services, or technology shall not be artificially divided for the purpose of avoiding the requirement to competitively bid the item required.</p> <p>In each case the Agency should make every attempt to obtain required quotes and bids as defined above. If after good faith effort to obtain the required quantity of quotes and bids, the Agency is unsuccessful, the Agency should document the actions taken and may submit the requisition with the lower quantity of quotes or bids. After obtaining quotes and bids, the purchase should be awarded to the lowest bidder unless there is just cause for awarding the bid to an alternate vendor. If a quote is awarded to a vendor other than a low bidder the Agency must document why the award should be given to an alternate vendor. If a bid is awarded to vendor other than a low bidder the Agency must submit documentation through board resolution explaining why the award should be given to an alternate vendor.</p>	

**POLICY #3**

**SUBJECT: Non-Collusion Certification**

**PURPOSE:** To document that no collusion has occurred among the vendors providing quotes or bids to the Agency.

**POLICY:** All quotes or bids shall be accompanied by a non-collusion agreement in the form of Schedule A attached hereto and made a part hereof.

**POLICY #4**

**SUBJECT: Procurements Exempt by Statute**

**PURPOSE:** Identify procurements exempt under General Municipal Law Section 104-b from the procurement procedures in Policy #2.

**POLICY:** Alternative proposals or quotations for goods and services shall be secured by use of written requests for proposals or written quotations, verbal quotations or any other method of procurement which furthers the purposes of General Municipal Law Section 104-b except for procurements made pursuant to:

1. General Municipal Law, Section 103(3) (through county contracts);
2. General Municipal Law, Section 104 (through state contracts);
3. State Finance Law, Section 175-b (from agencies for the blind or severely handicapped);  
or
4. Correction Law, Section 186 (articles manufactured in correctional institutions).

**POLICY #5**

**SUBJECT: Exceptions to Above Procurement Procedures**

**PURPOSE:** To set forth the circumstances when, or types of procurements which, in the sole discretion of the Agency, the solicitation of alternative proposals or quotations will not be in the best interest of the Agency.

**POLICY:** No circumstances other than those in Policy #3 above will justify the exception to Policy #2.

## **POLICY #6**

**SUBJECT: Procurement of Professional Services and the issuance of Requests for Proposals**

**PURPOSE:** To define the procedure for the procurement of Professional Services and the use of Request for Proposals.

**POLICY:** The procurement of a Professional Service is an exception to the Competitive Bid provision of the New York State General Municipal Law. The Agency may enter into a Professional Service Agreement without the need for a competitive bid. Use of a Request for Proposal is recommended when entering into a Professional Service Agreement as it provides an opportunity for the following:

1. The Agency can review up-to-date services and technology available in the market place.
2. Several different approaches to accomplish the request can be evaluated.
3. Service providers must compete for the Agency's business. This may lead to better service and lower cost for the Agency.

A Request for Proposal ("RFP") is a descriptive document that explains in detail the requirements and terms associated with specific services request by the Agency from service providers.

While not every Professional Service Agreement will be entered into as the result of an RFP, the determination of when an RFP is required shall be made as follows:

1. The Executive Director, in conjunction with the Agency's counsel, will determine if a service is classified as a Professional Service and eligible for the exemption under the General Municipal Law.
2. If the service is determined to be Professional, the Executive Director and the Agency's counsel will determine if an RFP shall be required to enter into this agreement.
3. The Executive Director will prepare the RFP. If the specifications are rigorous and technical in nature, it is Agency policy to subcontract the RFP development to a third party firm that specializes in preparing such documentation.
4. The final draft of the RFP document shall be approved by the Agency counsel and the Board members prior to distribution.
5. Distribution of the RFP shall be handled in the same manner as a competitive bid, with the Executive Director advertising the RFP, distributing the RFP packages, receiving the responses, tabulating the companies that provide a proposal, and awarding the RFP.

6. The Executive Director shall be responsible for the review of the proposals and the recommendation of an award.

The use of the RFP process may be combined with the competitive bid or quote process if the total transaction involves a hybrid of professional services and other services or professional services and the acquisition of goods. If the primary or predominant part of the transaction is the professional service, the use of the competitive bid or quote process may not be required. Purchasing will make the final determination in conjunction with the Agency's counsel as to the need for an additional process.

## **POLICY #7**

### **SUBJECT: Change Order Policy**

**PURPOSE:** To define the procedure with respect to change orders.

**POLICY:** Alterations to construction contracts or other service contracts are called Change Orders. Change Orders authorize additional or altered work to be performed that is either necessary to complete the work in the original contract as intended or to add work that would not result in a material change to the scope of the contract.

Change Orders may occur due to:

1. The need to add work related to the original scope, to delete work, or to otherwise modify the original work scope;
2. Price overruns or underruns (on a unit price item);
3. Design errors or omissions;
4. Unanticipated field conditions; or
5. Non-material scope of work changes.

A Change Order may not be used to circumvent the competitive bidding requirements where the supplemental work so varied from the original plan, was of such importance, or so altered the essential identity or main purpose of the contract, that it constitutes a new undertaking. Change Orders are not subject to other Policies herein because they are not viewed as new procurements. The Agency is allowed to modify contracts without competition so long as such modification does not alter the essential identity or main purpose of the contract.

While it is not unusual to have deductive Change Orders, Change Orders usually increase the cost of the contract. All Change Orders that increase the cost of the contract must be approved by the Agency. Accordingly, the work that is the subject of the Change Order may not be started prior to receipt of such Corporation approval. Supporting documentation for any Change Order must be submitted as an attachment to the proposed resolution for Corporation consideration. This supporting documentation may take any form, a memorandum for example, but must include a description of the project as originally constructed, the change in work as compared to the work that was originally contemplated in the contract as well as supporting information

describing why the Change Order does not constitute a change to the essential identity or main purpose of the original contract.

All Change Orders will be reviewed by the Agency's counsel as well as the Executive Director prior to being scheduled for Corporation consideration. The Executive Director, in consultation with the Agency's counsel, will make the final determination as to whether any proposed Change Order constitutes a new project for which competitive bidding is required.

The Agency recognizes that certain Change Orders may arise that are so essential and of such urgency that a commitment of public funds must be made prior to the next meeting of the Agency. A Change Order may be considered Urgent for any number of reasons including but not limited to a likelihood of the public safety being put at risk or irreparable damage being done to the overall project if additional work is not immediately approved. The Executive Director, in consultation with the Agency's counsel, will make the final determination as to whether any proposed Urgent Change Order is so essential as to warrant approval prior to being considered by the Agency.

Revised and re-adopted: March 30, 2020

Schedule A

**NON-COLLUSIVE BIDDING CERTIFICATION**

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

I, hereby affirm under the penalties of perjury that the foregoing statement is true.

Firm: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed)

Date: \_\_\_\_\_