

**REDEVELOPMENT AUTHORITY OF PRINCE GEORGES COUNTY  
PROCUREMENT OPERATING POLICIES, PROCEDURES AND  
COUNTY BASED BUSINESS AND COUNTY BASED SMALL  
BUSINESS PREFERENCE**

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**REDEVELOPMENT AUTHORITY OF PRINCE GEORGES COUNTY**

**PROCUREMENT OPERATING PROCEDURES**

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**Redevelopment Authority**  
of Prince George's County



# **REDEVELOPMENT AUTHORITY OF PRINCE GEORGE'S COUNTY**

## **PROCUREMENT OPERATING PROCEDURES**

### **Chapter I**

#### **I. GENERAL PROVISIONS**

##### **(A) Authority to Adopt**

The Contracting Officer has authority under the Statement of Procurement Policy adopted by the Authority on September 7, 1999, to issue operating procedures to implement the Procurement Policy.

##### **(B) Purpose and Policies**

The underlying purposes and policies of these Operating Procedures are to:

1. Provide for the fair and equitable treatment of all Persons or firms involved in the Authority's various procurement activities;
2. Assure that supplies and services are procured efficiently, effectively, and at the most favorable prices available to the Authority;
3. Promote County Based and County Based Small Business preferences;

4. Promote competition in contracting; and
5. Provide safeguards for maintaining the integrity of the procurement system.

**(C) Effect of Contracts in Contravention of Operating Procedures**

1. The Authority may not enter into, modify or suspend a contract except in accordance with the provisions of these Operating Procedures.
2. The Authority shall not be bound by any contract entered into in contravention of these Operating Procedures unless the Contracting Officer determines that:
  - a. All parties have acted in good faith; and
  - b. Ratification would not undermine the purposes and policies under Paragraph B of this Chapter I; and
  - c. The violation was insignificant or otherwise not substantive in nature

**(D) Applicability**

These Operating Procedures apply to all contracts for the procurement of supplies and services entered into by the Authority after the date these Operating Procedures are approved by the Authority. These Operating Procedures shall apply to every expenditure of funds by the Authority for public purchasing, irrespective of the source of funds, including contracts which do not involve an obligation of funds (such as concession contracts); however, nothing in these Operating Procedures shall prevent the Authority from complying with the terms and conditions of any grant, contract, gift or bequest that is otherwise consistent with the law.

**(E) Definitions**

**Contract** means all written types of agreements, grants and orders for the purchase, lease or disposal of supplies, services, construction insurance or any other item, including any written modification of, or supplement to, a contract.

**Contractor** means any business or person having a written contract with the Authority.

**Contracting Officer** refers to the person to whom the Authority delegates, by resolution, procurement authority for the Authority and when used herein, shall also refer to his or her designee.

**County** means Prince George's County, Maryland.

**Days** refers to calendar days, unless otherwise specified.

**Invitation for Bids** refers to all documents whether attached or incorporated by reference, utilized for soliciting bids in accordance with Chapter VIII of these Operating Procedures.

**Procurement** includes contracts for services, as well as the purchase, lease or rental of supplies and equipment.

**Request for Proposals** refers to all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with Chapter IX of these Operating Procedures.

**Specification** means a clear and accurate description of the functional characteristics, or the nature of a supply, service, or construction item to be procured. It may include a statement of any of the user's requirements and may provide for inspection, testing or preparation of a supply, service or construction item before procurement.

#### **(F) Public Access to Procurement Information**

Procurement information shall be a matter of public record to the extent provided for in Title 10, Part III, of the Annotated Code of Maryland and shall be available to the public as provided in that statute, except that information which is submitted under confidentiality during the course of procurement.



## **Chapter II**

### **II. PROCUREMENT AUTHORITY**

#### **(A) Delegation of Authority to Contracting Officer**

The Authority appoints and delegates procurement authority to the Contracting Officer to administer all procurement transactions. In order to further the purposes and policies set forth in Chapter I, Paragraph B of these Operating Procedures, and to protect the officers executing documents on the Authority's behalf, all contracts shall be co-executed by the Chairman and Secretary/Treasurer until the Contracting Officer is designated by the Authority.

#### **(B) Delegation of Authority by Contracting Officer**

The Contracting Officer may delegate procurement authority to other individuals provided (1) this is done explicitly in writing, (2) the written delegation of authority specifies the delegated actions, and (3) the written delegation of authority is approved by the Authority.

## Chapter III

### III. COOPERATIVE PURCHASING

#### (A) Development of Program

The Contracting Officer shall develop a program for joint or cooperative purchasing, when feasible, of common-use supplies and services with other agencies and jurisdictions, and for the standardization of common-use supplies and services. The Contracting Officer may, as appropriate, undertake and participate in similar programs involving joint or cooperative purchases with other agencies or jurisdictions and may procure services and supplies from such parties or utilize the contacts or schedules established by such agencies or jurisdictions when appropriate and when such actions shall be in the best interest of the Authority as recommended by the contracting officer based on economy and efficiency.

#### (B) Methods of Cooperative Programs

The Contracting Officer may participate in or utilize any of the following methods of cooperative purchasing:

1. Purchase from a County agency when the agency is willing to sell materials or supplies to the Authority at a price equal to cost plus a reasonable handling fee.
2. Utilize the contracts of County agencies or other jurisdictions when the following conditions exist
  - a. A decision is made that the quantity discounts available are likely to be greater than the Authority could obtain in its own independent procurement.
  - b. The contract was established in a method consistent with the purposes and policies of Chapter 1, Paragraph B of these Operating Procedures.
  - c. Either the contract contains specific authority for other jurisdictions, including the County, to procure from it, or the contractor expressly grants the Authority the right to procure off the contract under the same terms and conditions as the contracting agency or jurisdiction.
  - d. The contract is an established Federal Supply Schedule or State of Maryland competitive contract.

3. Include Authority requirements in a solicitation for bids or proposals where the requirements of multiple County agencies or multiple jurisdictions are combined for purposes of achieving economies of scale.

## Chapter IV

### IV. SPECIFICATIONS

#### **(A) Purpose**

A specification is the basis of obtaining a suitable supply, service, or construction item in a cost-effective manner. All specifications shall be drafted so as to promote overall economy for the purposes intended and to encourage competition in satisfying the Authority's needs. Specifications shall be reviewed prior to solicitation to ensure that they are not unduly restrictive or represent unnecessary or duplicative items.

#### **(B) Functional/Performance Specifications**

Functional or performance specifications, which describe required levels of function. Form, fit and performance of the subject of the contract are the preferred type of specification. Design specifications and combined design and performance specifications may be used when appropriate as determined by the Contracting Officer. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. For equipment purchases, a lease versus purchase analysis should be performed to determine the most economical form of procurement.

## Chapter V

### V. CONTRACTOR RESPONSIBILITY AND PRE-QUALIFICATION

#### (A) Responsibility

1. All contracts shall be awarded to a responsible bidder or offeror.
2. In determining a bidder or offeror's responsibility, the Contracting Officer shall consider:
  - a. The ability, capacity and skill of the bidder or offeror to perform the contract or provide the service required successfully;
  - b. The character, integrity, reputation, judgment, experience and efficiency of the bidder or offeror;
  - c. The quality of performance of previous contracts or services performed for the Authority or other customers;
  - d. The previous and existing compliance by the bidder or offeror with public policy, laws and ordinances relating to previous contracts with the Authority or other customers, or to the bidder's or offeror's employment practices;
  - e. The sufficiency of the financial and technical resources and ability of the bidder or offeror to perform the contract or provide the services;
  - f. The ability of the bidder or offeror to provide future maintenance and service for the use of the subject of the contract;
  - g. Whether the bidder or offeror is in default of a contract with the Authority or the County;
  - h. Whether the bidder or offeror is currently suspended or debarred from doing business with the Authority, any County agency, or any jurisdiction;
  - i. Whether the bid price or proposal is sufficient to assure that the performance of the bidder or offeror is in compliance with the Authority, any County agency, or any jurisdiction;

- J. Whether the bidder or offeror promptly supplies information in connection with a determination of responsibility.
3. If a prospective contractor is found to be nonresponsible, the Contracting Officer shall prepare a written determination of nonresponsibility that sets forth the reasons for the determination. The written determination shall be mailed to the nonresponsible prospective contractor, and a copy shall be included in the contract file.

## **(B) Pre-Qualification of Bidders or Offerors**

### 1. Generally

Interested businesses shall be given an opportunity to be included on pre-qualified bidders' and offerors' lists. Any pre-qualified lists of persons, firms or products that are used in the procurement of supplies and services shall be kept current and shall include enough qualified services to ensure competition. Solicitation mailing lists of potential contractors shall include, but not be limited to, such pre-qualified suppliers.

### 2. Procedure for Pre-Qualification

- a. The Authority shall issue a public notice for Letters of Interest that sets forth the pre-qualification criteria;
- b. The solicitation document shall include a statement that bids or proposals will only be received from those who satisfy the Pre-qualification criteria and that specifies when and where the pre-qualification information is to be submitted.
- c. Firms shall not be precluded from qualifying during the solicitation period.

### 3. Exclusive Use of Pre-Qualified Bidders/Offerors

The Authority may, in its sole discretion, limit competition in a solicitation to the existing list of pre-qualified bidders or offerors if one applies:

- a. The performance ability of prospective contractor is critical to the contract; or
- b. The prior experience of prospective contractor is critical to the performance of the contract; or

c. The Authority determines for good cause of a similar nature that it is in the Authority's best interest to do so.

4. Notice of Failure to Satisfy Pre-Qualification Criteria

All potential bidders or proposers who apply for pre-qualification and are not pre-qualified under this section shall be notified in writing.

## Chapter VI

### VI. PROCUREMENT METHODS

All Authority contracts shall be awarded by one of the following methods based on the nature of the goods or services required and the anticipated dollar value of the total procurement action:

(A) Small Purchase Procedures (Up to \$50,000)

1. Petty Cash Purchases
2. Small Purchases below \$10,000](Price Quotation from One Offeror)
3. Small Purchases between \$10,000 and \$50,000 (Price Quotations from Three Offerors)

(B) Competitive Sealed Bids (Over \$50,000)

(C) Competitive Sealed Proposals

(D) Noncompetitive Proposals

1. Single Source Availability
2. Upcoming Event-Time of the Essence
3. Acquisition of Real Property
4. Emergency
5. Inadequate Competition



## **Chapter VII**

### **VII. SMALL PURCHASE PROCEDURES**

#### **(A) Petty Cash Purchases**

The Authority may establish a petty cash account not to exceed \$500 to effect small purchases, which can be satisfied by local sources. The Contracting Officer shall ensure that: the account is managed by personnel outside of the Authority's financial unit; the account is established in an amount sufficient to cover small purchases made during a one month period; security is maintained and only authorized individuals have access to the account; receipts are provided for all purchases; the account is reconciled monthly and replenished by submission of a voucher (accompanied by receipts for the items purchased) to the Authority's financial unit; and, the account is periodically audited by the Manager of the Authority's financial unit or his or her designee to validate proper use and to verify that the account total equals cash on hand plus the total of accumulated vouchers.

#### **(B) Small Purchases Below \$10,000**

For small purchases of \$10,000 or less, a price quotation from only one offeror need be solicited if the price received is considered reasonable. Such purchases should be distributed equitably among qualified sources.

#### **(C) Small Purchases Between. \$10,000 and \$50,000**

For small purchases between \$10,000 and \$50,000, no less than three offerors shall be solicited to submit price quotations. Quotations may be obtained orally, by telephone, or in writing, shall be documented, and shall be made part of the public record. If non-price factors are used, they must be disclosed to all those solicited. Award shall be made to the offeror providing the lowest acceptable quotation, unless after consideration of non-price factors, it is in the best interest of the Authority to make the award to other than the lowest offeror. The names, addresses, and/or telephone numbers of the offerors and persons contacted, and the date and amount of each quotation shall be recorded and maintained as a public record.

## Chapter VIII

### VIII. Competitive Sealed Bids

#### (A) Conditions for Use

Contracts exceeding the small purchase limit of \$50,000 shall be awarded based on competitive sealed bidding if the following conditions are present:

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two (2) or more responsible bidders are willing and able to compete effectively for the work;
3. The procurement lends itself to a firm fixed price contract; and
4. The selection of the successful bidder can be made principally on the basis of price.

#### (B) Solicitation and Receipt of Bids

An invitation for bids ("IFB") shall be issued including specifications and all contractual terms and conditions applicable to the procurement, including a statement that the award will be made to the lowest responsible and responsive bidder whose bid meets the requirements of the IFB. The IFB shall state the time and place for both the receipt of bids (which shall be a minimum of fifteen (15) days from the issuance of the IFB) and the bid opening. All bids received shall be date/time-stamped but not opened and shall be stored in a secure place until bid opening. A bidder may withdraw its bid at any time prior to bid opening.

#### (C) Public Notice

Invitations for bids or the availability of IFBs shall be published once in three newspapers of record and posted in the Authority's office and such other locations as the Contracting Officer deems appropriate.

#### (D) Bid Opening and Award

Bids shall be opened in the presence of at least one witness. An abstract of bids shall be recorded. Award shall be made as provided in the IFB. Award shall be made to the responsive and responsible bidder offering the lowest price for the goods and/or services as specified by the Authority. Written notice of contract award shall be given to the successful bidder. If equal low bids are received from responsible bidders, award shall be made by drawing lots or similar random method unless otherwise stated in the IFB. If only one responsive bid is received from a responsible bidder, award shall not be made unless a cost or price analysis verifies the reasonableness of the price. Notice of contract award shall be made available to the public by posting at the Authority's office.

#### (E) Unsuccessful Bidders

Unsuccessful bidders shall be notified of contract award in writing within ten (10) business days after contract award.

## **(F) Mistakes in Bids**

1. Correction or withdrawal of inadvertently erroneous bids may be permitted, where appropriate in the Authority's sole discretion, before bid opening by written or telegraphic notice received in the office designated in the IFB prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only if the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. A low bidder alleging a nonjudgmental mistake may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid document, but the intended bid is unclear, or the bidder submits convincing evidence that a mistake was made.
2. All decisions to allow correction of bid mistakes or withdrawal of erroneous bids shall be supported by a written determination signed by the Contracting Officer. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Authority or fair competition shall be permitted.

## **(A) Pre-Bid Conferences**

Pre-bid conferences may be conducted by the Contracting Officer to explain the procurement requirements. The conferences may include site visits where appropriate. They shall be announced to all prospective bidders who were sent an IFB or who have obtained the bidding documents. Nothing stated at the pre-bid conference shall change the IFB unless a change is made by the Contracting Officer by written amendment. Changes, as well as substantive clarifications shall be made by written amendment. If a summary of the conference is made and clarifications are substantive, it shall be supplied to all prospective bidders who were sent an IFB or who have obtained the bidding documents.

## **(H) Amendments to Invitations for Bids**

1. Form  
Amendments to IFBs shall be identified as such and, when substantive, shall require that the bidder acknowledge receipt of amendments issued. The amendment shall reference the portion of the IFB it amends.

## 2. Distribution

Amendments shall be posted on the RDA website. It is the responsibility of prospective bidders to check the website for amendments.

The website posting shall be complete and sufficient notice of the amendment.

## **IX. COMPETITIVE SEALED PROPOSALS**

### **(A) Conditions for Use**

The competitive sealed proposals method may be used for contracts exceeding the small purchase limit of \$50,000 if, the Contracting Officer determines that either:

1. the specifications cannot be prepared that permit an award on the basis of either the lowest bid price or the lowest evaluated bid price; or
2. the quality, availability, product specificity, technical competence, or capability are of paramount importance in relation to price.

### **(B) Solicitation**

An adequate number of qualified sources shall be solicited by issuing a request for proposals ("RFP"). The RFP shall clearly identify the relative importance of price and other evaluation factors and subfactors, including the weight given to each technical factor and subfactor. A mechanism for fairly and thoroughly evaluating the technical and price proposals shall be established before the solicitation is issued. Proposals shall be handled so as to prevent disclosure of the number of offerors, identity of the offerors, or the contents of any proposal. The proposals shall be evaluated only on the criteria stated in the RFP. The RFP shall state the date, time and place the proposal-is due (which shall be a minimum of fifteen (15) days from the issuance of the RFP). All proposals received shall be date/time-stamped but not opened and shall be stored in a secure place until opening. The proposals need not be opened in public. An offeror may withdraw its proposal prior to the proposal due date.

### **(C) Public Notice**

An RFP, or the availability of an RFP, shall be published once in three newspapers of record and posted in the Authority's office and such other locations as the Contracting Officer deems appropriate.

### **(D) Negotiations**

The Authority may, but is not required, to negotiate with offerors. When the Authority elects to negotiate, negotiations shall be conducted with offerors whose proposals fall in the competitive range. The competitive range includes those proposals whose price and technical factors are such as to give them a reasonable chance of winning the award. Such offerors shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of proposals. The purpose of negotiations shall be to seek clarification with regard to, and advise offerors of, the deficiencies in both the technical and price aspects of their proposals so as to assure full understanding of, and conformance to, the solicitation requirements No offeror shall be provided information about any other offerors proposal, and no offeror shall be assisted in bringing its

proposal up to the level of any other proposal. A common deadline shall be established for receipt of final and best offers.

#### **(E) Award**

After evaluation of proposal revisions, if any, the contract shall be awarded to the responsive and responsible firm whose qualifications, price and other factors considered, are the most advantageous to the Authority. Notice of contract award shall be made available to the public by posting at the Authority's office.

#### **(F) Notice to Unsuccessful Offerors/Debriefing**

Unsuccessful offerors shall be notified of contract award in writing within ten (10) business days after contract award. Unsuccessful offerors shall receive an oral debriefing if so requested within fifteen (15) business days of receipt of notification that they have not received the contract award. At the debriefing, the offeror shall be informed of the areas in which their proposals were weak or deficient and shall be furnished the basis for the selection decision and contract award. The content of competing offeror's proposals or the individual scores or evaluation notes of the raters shall not be disclosed. A summary of the debriefing shall be made a part of the contract file.

#### **(G) Pre-Proposal Conferences**

Pre-proposal conferences may be conducted by the Contracting Officer to explain the procurement requirements. The conferences may include site visits, where appropriate. The pre-proposal conference shall be announced to all prospective offerors who were sent an RFP or who have obtained an RFP. Nothing stated at the pre-proposal conference shall change the RFP unless a change is made by the Contracting Officer by written amendment. Substantive clarifications shall be included in the written amendment. If a summary of the conference is made and clarifications are substantive, a copy of the summary shall be posted on the RDA website.

#### **(H) Amendments to Requests for Proposals**

1. Form

Amendments to RFP's shall be identified as such. The amendment shall reference the portion of the RFP it amends.

2. Distribution

Amendments shall be posted on the RDA website. The posting shall be complete and sufficient notice of the amendment.

## Chapter X

### X. NONCOMPETITIVE PROPOSALS

#### (A) Conditions for Use

Procurements shall be conducted competitively to the maximum extent possible. Procurement by noncompetitive proposals may be used when the award of a contract is not feasible using procurement methods for small purchases, competitive sealed bids, or competitive sealed proposals, and one of the following applies:

1. The good or service is available only from a single source, based on a good faith review of available sources;
2. The good or service is needed for an upcoming event and the Authority determines that time does not permit the use of another procurement method;
3. The procurement involves the acquisition of real property with said acquisition to follow the procedures set forth in the Redevelopment Authority Policies and Procedures for Acquisition and Disposition of Real Property.
4. An emergency exists that seriously threatens the Public health, welfare, safety, endangers property, or would otherwise cause serious injury to the Authority, as may arise by reason of a flood, earthquake, epidemic, riot, equipment failure, or similar event. In such cases, there must be an immediate and serious need for supplies or services such that the need cannot be met through any other procurement method, and the emergency procurement shall be limited to those supplies or services necessary to meet the emergency;
5. After solicitation of a number of sources, competition is determined inadequate; or
6. The procurement involves the services of an expert or specialist.

#### (B) Justification

Each procurement based on noncompetitive proposals shall be supported by a written justification for using such procedures. The justification shall be written by the Division, Office or operating unit requesting the noncompetitive procurement action. The justification shall be approved in writing by the Contracting Officer.

**(C) Price Reasonableness**

The reasonableness of the price for all procurements based on noncompetitive proposals shall be determined by performing a cost analysis, in accordance with the provisions of Chapter XI of these Operating Procedures.

[Note: This paragraph D is deleted because the Redevelopment Authority Policies and Procedures for Real Property Acquisition and Disposition is the guiding document for real property acquisition.]

**Chapter XI**

**XI. COST AND PRICE ANALYSIS**

**(A) Cost and Price Analysis**

A cost or price analysis shall be performed for all procurement actions above the small purchase limit of \$50,000. The method and scope of analysis shall depend on the facts surrounding each procurement in accordance with Paragraphs B through D below.

**(B) Submission of Cost or Pricing Information**



If the procurement is based on noncompetitive proposals, or when only one offer is received, or for other procurements as deemed necessary by the Authority (e.g., when contracting for professional, consulting, or architect/engineer services), the offeror shall be required to submit:

1. a cost breakdown showing projected costs and profit; and
2. commercial pricing and sales information (e.g. catalog or market prices of commercial products sold in substantial quantities to the general public) sufficient to enable the Authority to verify the reasonableness of the proposed price; or
3. documentation showing that the offered price is set by law or regulation.

**(C) Cost Analysis**

Cost analysis shall be performed if an offeror/contractor is required to submit a cost breakdown as part of its proposal. When a cost breakdown IS submitted: a cost analysis shall be performed of the individual cost elements; the Authority shall have a right to audit the contractor's books and records pertinent to such costs; and profit shall be analyzed separately. In establishing profit, the Authority shall consider factors such as the complexity and risk of the work involved, the contractor's investment and productivity, the amount of subcontracting, the quality of past performance, and industry profit rates in the area for similar work

**(D) Price Analysis**

A comparison of prices shall be used in all other procurement actions except those described in Paragraphs B and C above.

**Chapter XII**

**XII. CANCELLATION OF SOLICITATIONS**

**(A) Prior To Closing Date**

An IFB, RFP, or other solicitation may be cancelled before offers are due if:

1. The Authority no longer requires the supplies or services;

2. The Authority can no longer reasonably expect to fund the procurement;
3. Proposed amendments to the solicitation would be of such magnitude that a new solicitation would be desirable; or

For good cause of similar nature when it is in the best interest of the Authority.

**(B) After Closing Date**

A solicitation may be cancelled and all bids or proposals that have already been received may be rejected if:

1. The supplies or services are no longer required;
2. Ambiguous or otherwise inadequate specifications were part of the solicitation;
3. The solicitation did not provide for consideration of all factors of significance to the Authority;
4. Prices bid exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
5. There is reason to believe that bids or proposals may not have been independently arrived at in open competition. may have been collusive. or may have been submitted in bad faith; or
6. For good cause of a similar nature when it is in the best interest of the Authority

**(C) Procedure for Cancellation**

1. The reasons for cancellation shall be documented in the procurement file and the reasons for cancellation and/or rejection shall be provided upon request to any bidder or offeror solicited.
2. A notice of cancellation shall be sent to all bidders or offerors solicited and, if appropriate, shall explain that they will be given an opportunity to compete on any re-solicitation or future procurement of similar items.
3. If all otherwise acceptable bids received in response to an invitation for bids are at unreasonable prices, or only one bid is

received, and the price is unreasonable, the Authority shall cancel the solicitation and either:

- a. re-solicit using an RFP; or
- b. complete the procurement by using the competitive proposals method, following Chapter IX, Paragraphs D and E (when more than one otherwise acceptable bid has been received), or by using the noncompetitive proposals method and following Chapter X, Paragraphs B and C (when only one bid is received at an unreasonable price); provided, that the Contracting Officer determines in writing that such action is appropriate, all bidders are informed of the Authority's intent to negotiate, and each responsible bidder is given a reasonable opportunity to negotiate.

## **Chapter XIII**

### **V. TYPES OF CONTRACTS AND CLAUSES**

#### **(A) Contract Types**

Any type of contract which is appropriate to the procurement action and which will promote the best interests of the Authority may be used. All procurements shall include the clauses and provisions necessary to define the rights and responsibilities of the parties. All contracts are to be in writing,

clearly specifying the desired supplies or services, and are to be supported by sufficient documentation regarding the history of the procurement, including, at a minimum, the method of procurement chosen, the selection of the contract type, the materials for selecting or rejecting offers, and the basis for the contract price. The Contracting Officer shall confirm that there are sufficient unencumbered funds (as certified by the Secretary/Treasurer) available to cover the anticipated cost of each procurement before contract award.

## **(B) Types of Clauses**

### 1. Value Engineering

The Authority may include value engineering clauses in any contract whereby the Contractor and the Authority will share in savings resulting from Contractor-proposed cost savings proposals made after the award of the contract. When used, the value engineering clauses shall specify the percentage of savings to accrue to both the Authority and the Contractor.

### 2. Contract Incentives

The Authority may specify cost incentives or disincentives in the contract whereby an amount specified as the solicitation may be paid to a Contractor for early completion, or deducted from monies due the Contractor for late completion. In cost reimbursement type contracts, an incentive or disincentive clause may be used to adjust a Contractor's fee, based upon total contract costs being more or less than a pre-established target price.

### 3. Options

If the Contracting Officer determines that it is fiscally advantageous or is otherwise in the Authority's best interest, options for additional quantities or extended periods of performance may be included in the contracts, provided that:

- a. The options are contained in the solicitation;

- b. The options are defined as a unilateral right of the Authority;
- c. The contract states a limit on the additional quantities and the overall term of the contract;
- d. The options are evaluated as part of the initial competition;
- e. The contract states the period within which the options may be exercised; and
- f. The options may be exercised only at the price specified in or reasonably determinable from the contract.

## Chapter XIV

### XIV. CONTRACT ADMINISTRATION

#### **(A) Guidelines for Assuring Contract Performance**

A contract administration system designed to ensure that contractors perform in accordance with their contracts shall be maintained in accordance with the following guidelines:

1. The Contracting Officer shall conduct such periodic inspections of supplies and services as deemed appropriate under the circumstances, including any relevant documentation supplied by or in the control of the contractor.
2. The Contracting Officer shall conduct such periodic site visits as deemed appropriate under the circumstances to monitor the contractor's performance under a contract.
3. The Contracting Officer shall request such oral or written status reports from the contractor as deemed appropriate under the circumstances.
4. The Contracting Officer shall inspect Contractor's work prior to making any payment under a contract.
5. The Contracting Officer shall promptly make payment in accordance with the items of contract for contract work performed and accepted.

#### **(B) Incorporation of Specific Guidelines in Contract**

The Contracting Officer shall assure that contracts contain the provisions necessary to define the parties' rights. Responsibilities with regard to these and any other appropriate contract administrative guidelines.

## Chapter XV

### V. CONTRACT CLAIM AND DISPUTE RESOLUTION

#### (A) General

It is the Authority's policy to attempt to resolve all solicitation protests and contractual disputes informally and without litigation.

#### (B) Solicitation and Award Protests

An actual or prospective contractor may protest the solicitation or award of a contract for serious violations of the principles of the Procurement Policy or these Operating Procedures. Any protest against a solicitation must be received before the due date for receipt of bids or proposals, and any protests against the award of a contract must be received within five (5) business days after receipt of notification of contract award. or the protest will not be considered. All protests shall be in writing, submitted to the Contracting Officer, who shall issue a written decision on the matter. In the case of a solicitation protest, the Contracting Officer may, at his or her sole discretion, suspend the procurement pending resolution of the protest, if warranted by the facts presented.

#### (C) Contract Claims

All claims by a contractor relating to performance of a contract shall be submitted in writing to the Contracting Officer for a written decision. The contractor may request a conference on the claim. The Contracting Officer's decision shall inform the contractor of his or her right to appeal to the Circuit Court in accordance with Maryland Rule 7-202.

## Chapter XVI

### XVI. SUSPENSION AND DEBARMENT

#### (A) Applicability

The Contracting Officer may suspend or debar a contractor:

1. For unsatisfactory performance under a contract with the Authority;
2. Where the Contractor has been convicted of a criminal offense, or been found criminally liable, under the laws of any jurisdiction for:
  - a. acts or omissions in connection with any form of bribery, fraud, embezzlement, theft, forgery, fabrication, or destruction of documentation of records, receiving stolen property;
  - b. other acts or omissions which adversely impact the integrity of the public or private contracting system

#### (B) Procedure

1. The Contracting Officer shall notify the contractor in writing of the Authority's intention to suspend or debar the contractor. Such notice shall be sent by certified mail, return receipt requested, and shall provide the contractor a period of ten (10) business days from the date of mailing to respond in writing.
2. After consideration of the contractor's response, if any, the Contracting Officer shall make a determination whether a sufficient basis exists to continue with the proposed suspension or debarment proceedings. The Contracting Officer shall notify the contractor in writing of such determination. In the case of suspension, the notice shall specify the effective date and the length of the suspension, and the basis for the suspension. In the case of debarment, the notice shall advise the contractor of the right to request a conference by written communication delivered to the Contracting Officer within ten (10) days of the mailing of the notice.
2. After the debarment conference, or after waiver of the debarment conference (by notice or failure to timely request one), the Contracting Officer shall make a determination whether a sufficient basis exists to continue with the proposed debarment. The Contracting Officer shall notify the contractor in writing of such



determination. The notice shall specify the effective date and length of debarment, and the basis for the debarment.

**(C) Effect**

1. Contracts shall not be awarded to debarred or suspended contractors.
2. When a business entity is suspended or debarred, the officers, directors, partners or owners of the entity, and any firm controlled or managed by them, may, at the Authority's option, also be barred from the award of any Authority contract or participation therein, during the applicable period.
3. The length of the suspension or debarment shall be that which the Contracting Officer deems appropriate under the circumstances.

## Chapter XVII

### XVII. PREFERENCES

#### (A) County-Based Business and County-Based Small Business Preference

##### 1. Policy

The Authority finds that the public interest will be served by encouraging businesses to locate and remain in Prince George's County through the provision of local bid and proposal preferences and participation requirements for County-based businesses and County-based small businesses in the award of contracts in direct Authority procurement.

The Authority finds that the local bid and proposal preferences and local participation requirements in direct Authority procurement will serve the public interest because the resulting growth and development of County-based businesses and County-based small businesses will have a significant, positive impact on the economic health of the County by, among other things, increasing the County's commercial tax revenue and improving access to good paying careers for local residents.

##### 2. Required Efforts

The Authority shall make good faith efforts to ensure that County-based businesses and County-based small businesses are used when possible. Such efforts shall include, but not be limited to:

- a. Including such firms, when qualified, on solicitation mailing lists;
- b. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources;
- c. Requiring County-based business or County-based small business participation on selected procurements that are likely to involve subcontracting or the solicitation of bids for small purchases.

- d. Using the services and assistance of the Supplier Development and Diversity Division (S.D.D.D) of the Prince George's County Office of Central Services.
- e. Reports on County Based Business and County Based Small Business participation shall be made on a quarterly basis.

### 3. Definitions

- a. Certified County-based business participation means the percentage of the total contract dollars paid to businesses certified as County-based businesses.
- b. Certified County-based small business participation means the percentage of total contract dollars paid to businesses certified as County-based small businesses.
- c. County-based business means a business certified by SDDD as meeting the following requirements:
  - (1) Requires that its chief executive officer and the highest level managerial employees of the business maintain their offices and perform their managerial functions in the County;
  - (2) Files a written certificate that the business is not delinquent in the payment of any County taxes, charges, fees, rents or claims;
  - (3) Files a copy of a federal tax return filed with the Internal Revenue Service establishing that the business has continuously operated within Prince George's County within the preceding twelve (12) months;
  - (4) Files documentation showing that during the preceding twelve (12) months the business has continuously maintained a valid business license or permit;
  - (5) Files documentation showing that during the preceding twelve (12) months the business has continuously occupied an office within the County, as its principal place of operation; and
  - (6) Files documentation showing that:

- (i) More than fifty percent (50%) of the business' full-time employees are County residents; or
  - (ii) The owners of more than fifty percent (50%) of the business are County residents; or
  - (iii) More than (fifty percent) 50% of the assets of the business, excluding bank accounts, are located in the County; or
  - (iv) More than (fifty percent) 50% of the total sales or other revenues of the business are derived from transactions of the business in the County.
- d. County-based small business means a business certified by SDDD as meeting the following requirements:
- (1) The business meets the requirements of a County-based business as defined above; and
  - (2) The business meets the definition of "small business" pursuant to the Code of Maryland Regulations ("COMAR") 21.01.02.01(80); or
  - (3) The business meets the federal definition of "small business concern" in Part 121 of Title 13 of the Code of Federal Regulations.
- e. Minority business enterprise means any business enterprise:
- (1) Which is at least fifty-one percent (51%) owned by one or more minority individuals, or, in the case of any publicly-owned corporation, at least fifty-one percent (51%) of the stock of which is owned by one or more minority individuals; and
  - (2) Whose general management and daily business affairs and essential productive operations are controlled by one or more minority individuals; and
  - (3) Which has been certified by SDDD as a Minority Business Enterprise.

## Chapter XVIII

### **XVIII. ETHICS IN PUBLIC CONTRACTING**

#### **(A) General**

The Authority shall adhere to the code of conduct set forth in paragraphs B through D below.

#### **(B) Conflict of Interest**

No employee, officer or agent of this Authority shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict of interest, real or apparent, would be involved.

#### **(C) Gratuities, Kickbacks, and Use of Confidential Information**

Authority officers, employees or agents shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subcontracts, and shall not knowingly use confidential information for actual or anticipated personal gain.

#### **(D) Prohibition Against Contingent Fees**

Contractors shall not retain a person to solicit or secure an Authority contract for a commission, percentage, brokerage, or contingent fee, except for bona fide employees or bona fide established commercial selling agencies.

#### **(E) Sanctions**

A violation of any aspect of the code of Conduct set forth in this Chapter XVIII may be addressed by a suspension or termination of employment with the Authority (if the offender is an employee or officer of the Authority), or suspension, debarment or termination of contract (if the offender is an employee, officer or agent of a contractor or potential contractor)