PURCHASING POLICY AND PROCEDURES
FOR GOODS AND SERVICES OTHER THAN CONSTRUCTION PROJECTS

WHEREAS, The Herkimer County Industrial Development Agency (the "Agency") is a corporate governmental agency, constituting a public benefit corporation, organized pursuant to Article 18-A of the General Municipal Law of the State of New York, the "New York State Industrial Development Agency Act"; and

WHEREAS, Section 884 of this Act states "the provision of any law relating the requirement of public bidding with the respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this act; and

WHEREAS, Section 8 of Chapter 356 of the Laws of 1993, "The New York IDA Reform Act of 1993", provides that Section 104-b of the General Municipal Law, "Procurement Policies and Procedures", shall be applicable to purchases by an IDA of goods and services paid for by an IDA for its own use and account;

RESOLVED, that in accordance with this Section 104-b of the General Municipal Law, the Agency shall adhere to the following policies and procedures for the purchase of goods and services for its own use and account;

GENERAL POLICY

1. Pursuant to Section 103 of the General Municipal Law, all purchases of materials, equipment or supplies that involve an expenditure of over $20,000 shall be awarded only after public bidding pursuant to law for the soliciting of formal bids, unless purchased under State Contract pursuant to law.

2. Pursuant to Section 103 of the General Municipal Law, all purchases of materials, supplies, equipment and services that are not required by law to be bid shall follow the Guidelines for Quoting.

3. All contracts and purchases shall be awarded or paid in conformance to any applicable By-Laws of the Agency

4. The Chief Executive Officer may commit funds up to and including $5,000.00. Any commitment greater than $5,000.00 requires board approval.

REVIEWING PROCEDURE

1. General. Every purchase to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases

and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to Section 103 of the General Municipal Law: purchase contracts under $10,000 and public works contracts under $20,000; emergency purchases; certain municipal hospital purchases; goods purchased from agencies for the blind or severely handicapped; goods purchased from correctional institutions; purchases under State and county contract; and surplus and second-hand purchases from another governmental entity.

2. Competitive Bidding. The decision that a purchase is not subject to competitive bidding will be documented in writing by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase, or any other written documentation that is appropriate.

SECURING GOODS AND SERVICES. All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations, or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances: purchases contracts over $10,000 and public works contracts over $20,000; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; goods purchased from correctional institutions purchase to Section 186 of the Correction Law; purchases under State contracts pursuant to Section 104 of the General Municipal Law; purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or purchases pursuant to Section 505 of this Part.

GUIDELINES FOR QUOTING

The following guidelines shall be followed for purchases that fall below the $20,000 bid limit for all purchases of materials, supplies and equipment:

Up to $2,499	The discretion of the Agency
$2,500 to $19,999	Written/Fax Quote requested from more than one vendor
$20,000 and over	Formal bid

Under no circumstances can a quote that exceeds the bid limit be awarded. All quotes shall be documented and kept on file. Whenever other than the lowest quote is awarded, there must be written documentation of the reason for the award. Written documentation must be kept on file with the quotes.

EXCEPTIONS

1. **EMERGENCY** — An emergency exists wherein the delay caused by soliciting quotes would endanger the health, welfare or property of the Agency. If the situation is determined to be emergency in nature, by two officers of the Agency, then the procurement of goods or services will be at the discretion of an officer or the Administrative Director. Documentation as to the nature of the emergency must be kept on file.

2. **PROFESSIONAL SERVICES & CONSULTANTS** — Contracts, which require professional methods, character, or standards, fall into the Professional Service contract category. Many of these professional services require a state license to practice or may be creative and specialized in nature.

   Examples of professionals are:

   Accounting
   Advertising Agency Promotion
   Architectural
   Artwork
   Computer Software Maintenance Agreements
   Consultants
   Design Services
   Engineering
   Instructors/Teachers/Training
   Insurance
   Legal
   Medical/Dental Services

   Whereas, the intent of General Municipal Law Section 104 (b) includes hiring of consultants and professionals as outlined above, the following policy shall apply:

   In most instances, the Chairman and/or Treasurer of the Agency will enter into an agreement for professional services to be negotiated between the supplier of services and the IDA.

3. **MANDATED SOURCES** — Mandated procurement sources shall be investigated when products offered are requested by the Agency. These sources include Department of Corrections, Industries for the Blind of New York State, and the New York State Industries for the Disabled. These sources are referred to as New York State Preferred Sources.

4. **SOLE SOURCE** — When there is only one possible source from which to procure goods and/or services, thus indicating there is not possibility of competition, the following shall be shown:

   a. unique benefits of item needed;
   b. no other product/service can compare;
   c. cost is reasonable as compared to product offered;
   d. there is no competition available.

5. **TRUE LEASE** — Prices for True Leases will be obtained through the use of price quoting when possible. Evaluation of services and price shall determine successful vendor.

6. **SECOND HAND EQUIPMENT FROM OTHER GOVERNMENTS** — Surplus and second-hand supplies, material or equipment may be purchased

without competitive bidding from the federal government, the State of New York or from any other political subdivision, district or public benefit corporation. (Section 103 (b) General Municipal Law)

EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN.

1. All Agency documents soliciting bids or proposals for Agency contracts shall contain or make reference to the following provisions:

(a) The Agency will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this Section, affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation; and

(b) The Agency shall state, in all solicitations or advertisements for employees, that, in the performance of the Agency contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

2. Any contract awarded by the Agency will include the provisions of Section (A) of this Section in any subcontract, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the Agency contract.

3. The provisions of this Section shall not be binding upon contractors or subcontractors in the performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the Agency contract as expressed by its terms.

4. In the implementation of this Section, the Agency shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this Section. The Agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such law and if such duplication or conflict exists, the Agency shall waive the applicability of this Section to the extent of such duplication or conflict.

5. The Agency shall ensure that "certified businesses" (as defined in Section 310 of the Executive Law of the State of New York) shall be given the opportunity for meaningful participation in the performance of Agency contracts and to identify those Agency contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of Agency contracts so as to facilitate the award of a fair share of Agency contracts to such businesses.

The designated Contracting Officer for the Agency is the Chief Executive Officer