



## HERKIMER LOCAL DEVELOPMENT CORPORATION

### PROCUREMENT POLICY

**SECTION 1. PURPOSE AND AUTHORITY.** The purpose of this procurement policy (the “Policy”) is to outline the procurement policy of the Herkimer Local Development Corporation (the “Corporation”) applicable to procurements of goods and services paid for by the Corporation for its own use and benefit.

**SECTION 2. SECURING GOODS AND SERVICES.** (A) 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.

(B) 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 for in the following circumstances: (a) purchases costing less than \$2,500; goods purchased from agencies for the blind or severely handicapped pursuant to Section 175-b of the State Finance Law; (b) goods purchased from correctional institutions pursuant to Section 186 of the Correction Law; (c) purchases under state contracts pursuant to Section 104 of the General Municipal Law; (d) purchases under county contracts pursuant to Section 103(3) of the General Municipal Law; or (e) purchases pursuant to subdivision 4 of this Policy.

(C) All contracts and purchases shall be awarded or paid for in conformance to any applicable By-Laws of the Corporation.

(D) The Chief Executive Officer of the Corporation may commit Corporation funds up to \$5,000.00. Any commitment greater than \$5,000.00 requires approval of the board of the Corporation.

**SECTION 3. METHOD OF PURCHASE.** (A) General. Every procurement to be made by the Corporation must be initially reviewed to determine whether it constitutes a purchase contract or a public works contract. Generally, that determination may be made by the Chief Executive Officer and staff of the Corporation. Once the type of procurement is determined, the following method of purchase will be used by the Chief Executive Officer, or other directors or staff of the Corporation, when required by this Policy in order to achieve the highest savings:

<u>Estimated Amount of Contract</u>	<u>Method</u>
Up to \$2,499	The discretion of the Agency.
\$2,500-\$4,999	2 verbal quotations
\$5,000-\$19,999	3 written/fax quotations

\$20,000 and above

3 written request for proposals

(B) Number of Proposals or Quotations. A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

(C) Documentation. (1) Documentation is required of each action that is taken in connection with any procurement.

(2) Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the reward will achieve savings or how the offeror was not responsible. A determination that the offeror is not responsible shall be made by the purchaser and may not be challenged under any circumstances.

**SECTION 4. CIRCUMSTANCES WHERE SOLICITATION OF ALTERNATIVE PROPOSALS AND QUOTATIONS NOT IN BEST INTEREST.** This Policy may contain circumstances when, or types of procurements for which, in the sole discretion of the directors of the Corporation, the solicitation of alternative proposals or quotations will not be in the best interest of the Corporation. In the following circumstances, it may not be in the best interests of the Corporation to solicit quotations or document the basis for not accepting the lowest bid:

(A) Professional Services. Professional services or services requiring special or technical skill, training or expertise. The individual, company or firm must be chosen based on accountability, reliability, responsibility, skill, conflict of interests, reputation, education and training, judgement, integrity, continuity of service and moral worth. Furthermore, certain professional services to be provided to the Corporation, e.g., legal and accounting services, impact liability issues of the Corporation and its directors, including securities liability in circumstances where the Corporation is issuing bonds. These qualifications and the concerns of the Corporation regarding its liability and the liability of its directors are not necessarily found or addressed in the individual, company or firm that offers the lowest price and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. In determining whether a service fits into this category, the Corporation shall take into consideration the following guidelines: (a) whether the services are subject to state licensing or testing requirements; (b) whether substantial formal education or training is a necessary prerequisite to the performance of the services; and (c) whether the services require a personal relationship between the individual and the directors of the Corporation. Professional or technical services shall include but not be limited to the following: services of an attorney (including bond counsel); services of a physician; technical services of an engineer engaged to prepare plans, maps and estimates; securing insurance coverage and/or services of an insurance broker; services of a certified public accountant; investment management services; printing services involving extensive writing, editing or art work; management of Corporation-owned property; and computer software or programming services for customized programs, or services involved in substantial modification and customizing of pre-packaged software.

(B) Emergency Purchases. Due to the nature of this exception, these goods or services must be purchased immediately and a delay in order to seek alternate proposals may threaten the life, health, safety or welfare of the public. This section does not preclude alternate proposals if time permits.

(C) Mandated Sources. Mandated procurement sources shall be investigated when products offered are requested by the Corporation. 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.

(D) 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 Corporation must establish the following: (1) unique benefits of the materials or services to be procured; (2) no other product or service would be sufficient to meet the needs of the Corporation; (3) the cost is reasonable as compared to the product offered; and (d) there is no competition available.

(E) True Lease. Prices for True Leases will be obtained through the use of price quoting when possible. Evaluation of services and price shall determine the chosen vendor.

(F) Purchases of Secondhand Goods. If alternate proposals are required, the Corporation is precluded from purchasing surplus and second-hand goods at auctions or through specific advertised sources where the best prices are usually obtained. It is also difficult to try to compare prices of used goods and a lower price may indicate an older product.

(G) Goods or Services Under \$2,500. The time and documentation required to purchase through this Policy may be more costly than the item itself and would therefore not be in the best interests of the taxpayer. In addition, it is not likely that such de minimis contracts would be awarded based on favoritism.

(H) Special Findings. In the event the Corporation determines that the solicitation of alternative proposals or quotations is not in the best interests of the Corporation, the Corporation must make such determination by resolution duly adopted and entered into the minutes of the Corporation. Such resolution should include any findings described in this Section 4(H) supporting such determination.

**SECTION 5. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN.** (A) All Corporation documents soliciting bids or proposals for the Corporation contracts shall contain or make reference to the following provisions:

(1) The Corporation will not discriminate against employees or applications for employment because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, or marital or domestic partner 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 5, 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

(2) The Corporation shall state, in all solicitations or advertisements for employees, that, in the performance of the Corporation contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, color, religion, sex, national origin, sexual orientation, gender, age, disability, or marital or domestic partner status.

(B) Any contract awarded by the Corporation will included the provisions of Section 5(A) hereof in any subcontract, in such a manner that the provisions will be binding upon each subcontractor as to work in connection with the Corporation contract.

(C) The provisions of this Section 5 shall not be binding upon contractors or subcontractors in performance of work or the provision of services or any other activity that are unrelated, separate or distinct from the Corporation contract as expressed by its terms.

(D) In the implementation of this Section 5, the Corporation shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this Section 5. The Corporation 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 Corporation shall waive the applicability of this Section 5 to the extent of such duplication or conflict.

(E) The Corporation 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 Corporation contracts and to identify those Corporation contracts for which certified businesses my best bid to actively and affirmatively promote and assist their participation in the performance of Corporation contracts so as to facilitate the award of a fair share of Corporation contracts to such businesses.

**SECTION 6. DESIGNATED CONTRACTING OFFICER..** The designated Contracting Officer of the Corporation is the Chief Executive Officer.

**SECTION 7. POLICY REVIEW.** This Policy will be reviewed annually.

**Adopted: January 30, 2024**