

# PURCHASING POLICY

## SOUTHSIDE NETWORK AUTHORITY

*Adopted \_\_\_\_\_, 2020*

# **GENERAL**

## **1.1 INTENT**

The purchasing procedures set forth in this Purchasing Policy are designed to supplement and implement the rules set forth in the Virginia Public Procurement Act (VPPA), Chapter 43 of Title 2.2 of the Code of Virginia, 1950, as amended, and other laws relating to public procurement of goods and services. The rules are intended to be supplementary and complementary. In the event of any apparent conflict between this Policy and state law, the Policy should be interpreted to as to supplement, rather than conflict with, state law. However, in the event of an irreconcilable conflict, state law controls.

## **1.2 PURCHASING AGENT**

The Executive Director is designated the purchasing agent and shall serve as the principal public purchasing official for the Authority, and whenever the “Authority” may take any action herein, it may be taken by the Executive Director or designee. When this Policy refers specifically to a decision that must be made by the “governing body” or “Board of Directors,” or “Executive Director,” that decision or action must be taken by that body or official. In general, however, the Executive Director may delegate the administrative purchasing responsibility to a responsible subordinate or designee. The Executive Director shall be responsible to insure that:

- A. Purchase or supervise the purchasing of all goods, services, insurance, and construction needed by the Authority;
- B. Exercise direct supervision over the Authority’s physical and intangible assets and general supervision over all other inventories of goods belonging to the Authority;
- C. Sell, trade, or otherwise dispose of surplus goods;
- D. Establish and maintain programs for specifications development, contract administration and inspection and acceptance, in cooperation with the public agencies using the goods, services, and construction.

The Executive Director is authorized to enter into contracts or authorize purchase orders, job orders, or tasks under term contracts where the expected value is not more than \$30,000, procurement has been carried out under this manual and in accordance with the requirements of law, and such a contract, purchase order, job order, or task is within his or her budgetary authority. All other purchases must be approved by the Board of Directors.

## **1.3 VIOLATIONS**

Any purchase or contract entered into by any elected or appointed Authority official, department head or employee that violates the provisions of Authority’s Purchasing Policy and Procedures may be the personal financial responsibility of that individual. Violation of these policies and procedures shall be grounds for disciplinary action up to and including termination, criminal prosecution, and civil suits.

# **METHODS OF PROCUREMENT**

## **2.1 INCORPORATION OF STATE LAW**

The general provisions of state law relating to procurement, including the definitions set forth in Section 2.2-3701 of the Code of Virginia, 1950, as amended, are incorporated herein by reference.

## **2.2 CHOICE OF METHOD**

In general, for purchases that are above the limits set out in the Small Purchase Policy (§ 2.3), goods and nonprofessional services should be purchased through competitive sealed bidding or competitive negotiation, depending on what is determined to be in the best interest of the Authority in accordance with the Public Procurement Act; professional services (including architectural and engineering services) should be purchased through competitive negotiation; insurance should be procured through competitive negotiation; and construction should be purchased using competitive sealed bidding (subject to variations in complex situations). Which method is most appropriate to use in a given circumstance is generally in the discretion of the Executive Director. If a method other than the default method set out in this section is used, the Executive Director should develop a written rationale, which shall be kept in the procurement file.

## **2.3 SMALL PURCHASES**

- A. The Virginia Public Procurement Act permits the Authority to establish small purchase procedures, not requiring competitive sealed bids or competitive negotiation for single or term contracts for small purchases of goods and services, except construction.
- B. The following small purchase procedures have been established for use when acquiring materials, supplies, equipment, printing, nonprofessional services, or professional services have a value of under \$30,000. Procurements made pursuant to these procedures do not require public bid openings or newspaper advertisements of competitively negotiated procurements, except as expressly set forth in this policy. Small purchases generally do not justify the administrative time and expense necessary to conduct formal competitive sealed bidding or competitive negotiation. However, the Authority will use the most competition that is practical under the circumstances, and the fact that a procurement may qualify as a small purchase under this policy does not prohibit the Authority from electing to use full competitive negotiation or competitive sealed bidding.
  - 1. PURCHASES NOT MORE THAN \$1,000 IN VALUE—Purchases in this group require no quotation, and are sometimes called “vendor of choice.” The \$1,000 limit applies to the total of all items purchased on an invoice.
  - 2. PURCHASES BETWEEN \$1,000 AND \$5,000 IN VALUE—For purchases of this type at least three (3) quotations from valid sources must be solicited orally (in person or by telephone), by email, in writing, or by fax.
  - 3. PURCHASES BETWEEN \$5,000 AND \$15,000 IN VALUE—Written quotations will be solicited from at least four (4) valid sources. A record should be kept of the name and address of the vendors contacted, the item description or services offered, price quoted, delivery dates, and name of contact person. A written quotation includes a quotation submitted by fax or email.

4. PURCHASES BETWEEN \$15,000 AND \$30,000 IN VALUE – Unsealed bids or proposals may be solicited with a written description or by written informal IFBs or RFPs setting out a scope of work or specific good or service sought. All purchases in this category require soliciting at least four (4) valid sources in writing.

A file with the results of solicitations of quotes for procurements over \$1,000 in value shall be kept by the Authority.

## 2.4 TERM & JOB ORDER CONTRACTS

- A. *Term Contracts.* The Authority may, through competitive negotiation or competitive sealed bidding as appropriate under the VPPA, procure fixed unit-price contracts for any good or service, except architecture, engineering, or construction services. Goods and services may be purchased on such contracts in the manner set forth in the contract.
- B. *Job Order Contracts.* The Authority may, through competitive negotiation or competitive sealed bidding as appropriate under the VPPA, enter job order contracts, subject to the following conditions and limitations:
  1. A job order contract may be awarded by the Authority for multiple jobs, provided (i) the jobs require similar experience and expertise, (ii) the nature of the jobs is clearly identified in the solicitation, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this subdivision, whichever occurs first.
  2. Such contracts may be renewable for two additional one-year terms at the option of the Authority. The fair and reasonable prices as negotiated shall be used in determining the cost of each job performed, and the sum of all jobs performed in a one-year contract term shall not exceed \$5 million. Individual job orders shall not exceed \$500,000. For the purposes of this subdivision, any unused amounts from one contract term shall not be carried forward to any additional term.
  3. Order splitting with the intent of keeping a job order under the maximum dollar amounts prescribed in subdivision B.2 is prohibited.
  4. The Authority will not issue or use a job order, under a job order contract, solely for the purpose of receiving professional architectural or engineering services that constitute the practice of architecture or the practice of engineering as those terms are defined in Va. Code § 54.1-400. However, professional architectural or engineering services may be included on a job order where such professional services (i) are incidental and directly related to the job, (ii) do not exceed \$25,000 per job order, and (iii) do not exceed \$75,000 per contract term.
  5. Job order contracting shall not be used for construction, maintenance, or asset management services for a highway, bridge, tunnel, or overpass.
- C. Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long-term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, where the completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to entering into any such contract, the Authority will (i) state

the anticipated intended total scope of the project and (ii) determine in writing that the nature of the work is such that the best interests of the Authority require awarding the contract.

## **2.5 SOLE SOURCE PROCUREMENT**

Upon determination by the Authority that there is only one source practicably available for goods or services, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The Executive Director is responsible to determine the appropriateness of a sole source procurement. The determination shall be posted on the Authority website on the day the Executive Director makes the determination.

- A. Explain why this is the only product or service that can meet the needs of the Authority.
- B. Explain why this vendor is the only practicably available source from which to obtain this product or service.
- C. Explain why the price is considered reasonable.
- D. Describe the efforts that were made to conduct a noncompetitive negotiation to get the best possible price.

The Executive Director shall review the writing and either approve or deny the request.

## **2.6 EMERGENCY PROCUREMENT**

In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. The Authority shall document the basis for the determination, what is being procured, the contractor selected, and the date on which the contract was or will be awarded. The Executive Director shall approve the determination. The determination shall be posted the Authority website on the day the procurement is made or as soon thereafter as practicable.

## **2.7 DESIGN-BUILD OR CONSTRUCTION MANAGER AT RISK (CMAR) CONTRACTS FOR THE AUTHORITY**

- A. The competitive sealed bid process is the preferred method of construction procurement. However, the Authority may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction manager at risk basis provided the Authority complies with the requirements of this section.

Prior to making a determination as to the use of design-build or construction management for a specific construction project, the Authority shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who will advise the Authority regarding the use of design-build or construction management for that project and who shall assist the Authority with the preparation of the Request for Proposal and the evaluation of such proposals.

Prior to issuing a Request for Proposal for any design-build or construction management contract for a specific construction project, the Authority will:

1. Have adopted written procedures governing the selection, evaluation and award of design-build and construction management contracts. Such procedures shall be consistent with those described in this chapter for the procurement of nonprofessional services through competitive negotiation. Such procedures shall also require Requests for Proposals to include and define the criteria of such construction project in areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; and special telecommunications; and may define such other requirements as the Authority determines appropriate for that particular construction project. Such procedures for:
    - a. Design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Commonwealth Department of General Services for state agencies.
    - b. Construction management projects shall include selection procedures and required construction management contract terms consistent with the procedures as adopted by the Secretary of Administration.
  2. Have documented in writing that for a specific construction project (i) a design-build or construction management contract is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the Authority by using a design-build or construction management contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous.
- B. The contract will be awarded to the fully qualified offeror who submits an acceptable proposal determined to be the best value in response to the Request for Proposal.

## **USED GOODS, SURPLUS, AND DISPOSAL**

### **3.1 PURCHASE OF USED GOODS**

Used goods or equipment may be purchased upon a written determination, approved by the Executive Director, that: (1) Purchase of used goods or equipment, rather than new goods or equipment, is fiscally advantageous to the Authority; and (2) That such competition as is possible under the circumstances, or non-competitive negotiation over prices and terms, has been used. The Authority may purchase of used goods and equipment for less than \$1,000 without approval of a formal memorandum.

### **3.2 PURPOSE AND APPLICABILITY**

Surplus property is defined as any materials, supplies, or equipment purchased by the Authority for use by Authority officials and employees that is determined to be surplus. Determinations of surplus status must be approved by the Executive Director. Authority staff shall identify materials, supplies or equipment no longer in use within their operations, whether because of need or service issues. Periodically, these retired items, once identified, shall be listed and described, including estimated values, and submitted to the Executive Director for approval.

### **3.3 DISPOSING OF SURPLUS**

Disposal of surplus property should progress as follows:

- A. First, consider transfer to another Authority office/department or the Authority's member localities.
- B. Second, notify DGS/OSPM of available property; making it available for sale to other government bodies.
- C. Or, make available to the public through the Annual School Board Auction or posting to GovDeals or a similar public auction site or otherwise through public auction or sealed bidding.
- D. Non-functional property may be transferred/sold as-is for parts, or for recycling material.
- E. Or, otherwise disposed of properly by accepted disposal methods at a lawfully permitted waste disposal facility. Any usable parts should be kept or transferred to appropriate user; or sold as specified above.

### **3.4 PROHIBITED DISPOSAL**

In accordance with state guidelines, surplus Authority property can NOT be given to a Authority employee, nor can it be bought by Authority employees, except through an open public sale or auction.