

FOR CONSIDERATION

August 16, 2010

TO: The Directors

FROM: Dennis M. Mullen

SUBJECT: ESDC and Subsidiaries Procurements Guidelines

REQUEST FOR: Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

Background

At its May 21, 2009 meeting, the Directors adopted updated and revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, as mandated by § 2879 of the Public Authorities Law (the “2009 Guidelines”). Annual review and approval of the Corporation’s Procurement Guidelines is also required by Public Authorities Law § 2879.

Review of the 2009 Guidelines has disclosed a number of areas where updating is required, notably due to the publication of the State Procurements Council Model Procurement Guidelines in July 2009, and to comply with new legislation such as the 2010 amendments to the Public Authorities Law. Accordingly, the Procurements Manager and staff from the Legal Department, supported by representatives of the Contracts Administration and Finance Departments, have engaged in a substantial revision of the 2009 Guidelines, and approval of these resulting Guidelines (the “proposed Guidelines”) is sought.

Procurement Contracts Guidelines Summary

The proposed Guidelines attached to this memorandum set forth the policies and procedures to be followed by the Corporation and its subsidiaries when seeking to contract for goods or services and when entering into certain real estate transactions. It is expected that, if approved by the Directors, each subsidiary will approve its own Procurement Guidelines in terms virtually identical to the proposed Guidelines, with any departure therefrom fully explained by the subsidiary Directors.

The proposed Guidelines define the universe of procurement transactions which are subject to the policies and procedures. Generally, all procurements by the Corporation must be competitive, except where State law provides for non-competitive sourcing (e.g., goods purchased from approved non-profit agencies for the blind, and procurements from the Office of General Services Centralized Contracts List). Procurement contracts must be obtained after advertisement in the NYS Contract Reporter, except in limited instances where an exemption is obtained, generally for sole source procurements when only one vendor offers the desired goods or services. The proposed Guidelines explain the various means of obtaining goods and services

in an open, accountable and transparent manner, including incorporation of the Corporation's Bid Opening Guidelines and the compilation of a Procurements Record for every covered Procurement Contract.

The proposed Guidelines also explain the procedures for obtaining approval of planned procurements, including those procurements for which Board approval is required. Approval of procurement contracts by other agencies, notably the post-execution approval by the Office of the State Comptroller of certain contracts (probably including loans and grant) in excess of one million dollars and funded by appropriation, and amendments thereto, pursuant to § 2879-a of the Public Authorities Law is also incorporated into the proposed Guidelines. Monitoring and annual reporting of procurements and on-going contracts is also covered.

The proposed Guidelines comply with the applicable provisions of the Public Authorities Law, the State Finance Law and the State Tax Law. They are consistent with the State Procurement Council's Guidelines and with the Governor's directive that all state agencies and public authorities make responsible spending decisions, and that they be accountable for sufficient monitoring of their spending to ensure the highest level of fairness, non-discrimination, openness and transparency.

The proposed Guidelines are intended to be user-friendly and set forth in a logical and coherent fashion that will assist staff in understanding the procedures to be followed and the substantive rules that govern procurements. Many sources of help and information are included as clickable links, and virtually all required forms and ESDC policy and procedure documents can also be accessed from within the document by hyperlinks. For obvious reasons, the hard copy of the proposed Guidelines presented to the Directors for approval cannot contain these links, but they are shown in highlight form.

Requested Action

The Directors are requested to adopt the proposed Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, effective as of August 16, 2010.

Attachments

Resolution
Proposed revised Guidelines for the Use, Awarding, Monitoring and
Reporting of Procurement Contracts

August 16, 2010

NEW YORK STATE URBAN DEVELOPMENT CORPORATION – Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts.

BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation (the “materials”), the proposed Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, a copy of which is attached to the materials, be and hereby is approved and adopted, effective as of the date hereof, and the President or his designee is authorized to promulgate the said Guidelines in electronic form and other media for the use of the staff of the Corporation and its Subsidiaries, and to take such other and further action as may be deemed necessary to effectuate the foregoing Resolution.

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