

FOR CONSIDERATION

March 27, 2013

TO: The Directors

FROM: Barbara Lampen

SUBJECT: New York (New York County) – Jacob K. Javits Convention Center
Renovation and Expansion Civic Project - Annual Operating and Capital
Budgets for FY 2013-2014

REQUEST FOR: Authorization to Adopt Annual Operating and Capital Budgets for FY
2013-2014 and To Take Related Actions

BACKGROUND

In furtherance of the Comptroller's oversight responsibilities as set forth in Article X, Subsection 5 of the State Constitution and Subsection 8(14) of the State Finance Law, the Comptroller's Office has promulgated regulations regarding the preparation, approval, submission and reporting of budgets and financial plans by public authorities ("Regulations").

The Regulations require, among other things, that prior to the commencement of the fiscal year, the Directors adopt the annual budget. A proposed Operating and Capital Budget is attached here for your review. The Budget will be funded with proceeds from the Hotel Unit Fee Secured Revenue Bond Series 2005.

THE 2013-2014 OPERATING AND CAPITAL BUDGETS

Overall, the Operating Budget decreased by \$705. The proposed Capital Budget will fund the renovation program approved in the 2009 General Project Plan.

ENVIRONMENTAL REVIEW

ESD staff, on behalf of CCDC, has determined that the requested authorization constitutes a Type II action as defined by the New York State Environmental Quality Review Act and the implementing regulations of the New York State Department of Environmental

Conservation. No further environmental review is required in connection with the authorization.

REQUESTED ACTION

The Directors are requested to adopt the Annual Budgets as set forth in the attachments and to delegate authority to the appropriate officers to take related actions.

ATTACHMENTS

Resolution
Proposed Annual Operating and Capital Budgets for FY 2013-2014

March 27, 2013

NEW YORK (NEW YORK COUNTY) – Jacob K. Javits Convention Center Expansion and Renovation Project - Annual Operating and Capital Budgets for FY 2013-2014.

RESOLVED, that, in accordance with the materials presented to this meeting and ordered filed with the records of the Corporation, the Corporation be, and hereby is, authorized to:

Adopt the Annual Operating and Capital Budgets for FY 2013-2014; and be it further

RESOLVED, that, the President or her designee(s) be, and each of them hereby is, authorized and directed, in the name of and on behalf of the Corporation, to execute and deliver any and all documents and to take all actions as may be necessary or proper to effectuate the foregoing.

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FOR CONSIDERATION

March 27, 2013

TO: The Directors

FROM: Barbara Lampen

SUBJECT: New York (New York County) – Jacob K. Javits Convention Center
Renovation and Expansion Civic Project

REQUEST FOR: Authorization to Adopt the Revised Guidelines for the Use, Awarding,
Monitoring and Reporting of Procurement Contracts and to Take Related
Actions

BACKGROUND:

At its August 16, 2010 meeting, the ESD 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 “2010 Guidelines”). There have been a number of changes to relevant laws in the past year. Accordingly, the Procurements Manager and staff from the Legal Department, supported by representatives of the Contracts Administration and Finance Departments, have engaged in a revision of the Guidelines. On January 17, 2013, the ESD Board adopted the revised Guidelines (the “2013 Guidelines”), which are designed to govern procurements by ESD subsidiaries such as the New York Convention Center Development Corporation (“CCDC”). Accordingly, approval is sought for the adoption of the 2013 Guidelines by the CCDC Board.

PROCUREMENT CONTRACTS GUIDELINES SUMMARY:

The 2013 Guidelines attached to this memorandum set forth the policies and procedures to be followed by CCDC when seeking to contract for goods or services. It should be noted that these Guidelines do not have the force of law, and are intended as a statement of best practices and procedures. No contract is invalid merely because the guidelines have not been followed.

The 2013 Guidelines define the universe of procurement transactions which are subject to the policies and procedures. Generally, all procurements by CCDC 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). Based on the expected cost of procured goods and/or services, procurement contracts must be obtained after advertisement in the NYS Contract Reporter, except in limited instances where an exemption is obtained, generally for sole or single source procurements when only one vendor offers the desired goods or services or when a single vendor has unique qualities or experience that obviate a competitive process. The proposed Guidelines explain the various means of obtaining goods and services in an open, accountable and transparent manner, including incorporation of the ESD Bid Opening Guidelines and the compilation of a Procurements Record for every covered Procurement Contract.

The 2013 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 2013 Guidelines are intended to be user-friendly and are 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 ESD 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.

Highlights of the attached Guidelines include:

1. Service contracts that last for more than one year do not automatically require Board approval. For example, equipment warranty and product maintenance/support/lease contracts (including but not limited to auto leases) that last for more than one year do not require approval by the Board unless the amount of such contract is over \$100,000 in aggregate through the life of the contract. This will allow CCDC to speedily enter into such contracts, which generally are significantly cheaper than single-year contracts that must be renewed annually.
2. "Forced contracts" are not procurement contracts. Forced contracts arise when an agency may need to obtain a license from a governmental agency, authority, or company or a public utility in order to enter the licensor's premises and perform work. As a precondition to receiving the license, an agency can be required to enter into agreements with the licensor that prescribe conditions for work to be performed on the site, including work and/or oversight of work which must be performed by the licensor's personnel or contractors, as well as payment of licensor costs by an agency. Examples include licenses for work on rail and utility facilities. Forced contracts are not covered by the competitive solicitation requirements because an agency has no discretion or

authority with respect to the work to be performed by the licensor's personnel and contractors. However, appropriate approval(s) (including Board approval based on the amount and/or duration of the agreement) would apply.

3. Submission of the State Controller's Vendrep vendor responsibility form is required for all contracts to be approved by the Board, and encouraged for all contracts.
4. MWBE requirements of Executive Law Article 15 are incorporated.
5. Compliance with Iran Divestment Act of 2012 is required. This legislation, recently made applicable to public authorities, mandates that all vendors contracting with public authorities such as CCDC must certify that they do not have investments in Iran.
6. Compliance with Project Sunlight is required. This is a Governor's initiative that requires (among other things) public authorities to report on an Office of General Services database communications from representatives of parties seeking procurement contracts which are intended to influence the award of such contracts.
7. To more efficiently handle small procurements of goods that do not require Board approval, the dollar limit for Purchase Orders is \$50,000. Purchase Orders are simpler than ESD's Short Form Contract for goods or services, thus reducing negotiation time and expense. Purchase Orders require approval by the relevant Department Head, Procurement Department, Controller's Office and Contracts Administration. Contracts for services of less than one year continue to require the Short Form Contract and approval by the Chief Financial Officer or designee. Contracts over \$50,000, or for services in any amount for more than one year, require Board approval.

ENVIRONMENTAL REVIEW:

ESD staff, on behalf of CCDC, has determined that the requested action constitutes a Type II action as defined by the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations for the New York State Department of Environmental Conservation. No further environmental review is required in connection with the requested action.

RECOMMENDATION AND REQUESTED ACTION:

The Directors are requested to adopt the 2013 Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, effective as of the date of approval.

Attachments:

Resolution

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

March 27, 2013

NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION – CCDC Procurements
Guidelines - 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 proposed 2013 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 as of the date hereof, and the President or her designee is authorized to promulgate the said Guidelines in electronic form and other media for the use of the staff of the Corporation, and to take such other and further action as may be deemed necessary or appropriate to effectuate the foregoing Resolution.

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