

DUTCHESS COUNTY WATER AND WASTEWATER AUTHORITY
GOODS AND SERVICES PROCUREMENT POLICY

Approved January, 2023

1.0 - Purpose and Scope of Policy Statement

This policy statement is intended to further the objective of ensuring the prudent and economical use of public monies, facilitating the acquisition of goods and services of maximum quality at the lowest possible cost, and guarding against favoritism, improvidence, extravagance, fraud, and corruption.

This policy addresses the legal and procedural requirements for competitive bidding; defines those instances of procurements of goods and services that are not subject to competitive bidding by law and establishes the alternative procedures to be followed in such instances.

2.0 - Annual Review and Adoption by the Authority Board

This policy statement shall be annually reviewed and adopted by a resolution of the Authority Board. Included in such annual adoption resolution, the Authority Board identifies the following Authority employees as responsible for authorizing procurements not requiring Board approval, as provided by this Policy:

- Executive Director
- Deputy Director
- Fiscal Officer or designee
- Director of Operations or designee

Further, the Board also designates, by virtue of such resolution, the following Authority employees as responsible for the opening of all competitive bids received by the Authority:

- Executive Director
- Deputy Director or designee
- Fiscal Officer or designee
- Director of Operations or designee
- Project Manager or designee

3.0 – General

3.1 Documentation

For all procurements, it is important that adequate documentation be provided to demonstrate that all policy requirements were followed. In instances where the

specified number of verbal or written price quotes has not been obtained, documentation must be provided of a good-faith effort to obtain the required number of quotes. For all procurements not subject to competitive bidding requirements, documentation and justification must be provided for any contract awarded to other than the lowest-dollar proposer.

3.2 - Equal Opportunity Employment (EOE) and Minority/Women-Owned Business Enterprise (MWBE) Opportunity Requirements

Pursuant to Section 1138 of the Authority's Enabling Statute, the Authority, in awarding contracts for design, construction, services or materials shall ensure that all employees and applicants for employment are afforded equal opportunity without discrimination. Further, for the purposes of Article 15-A of the Executive Law, the Authority shall be deemed a state agency. Accordingly, the Authority must comply with the requirements of:

- Executive Law Section 312 regarding equal opportunity for minority groups and women in bid proposals and contracts:
 - For labor, services (including but not limited to legal, financial and other professional services,) supplies, equipment, materials or any combination of same where the proposed contract exceeds \$25,000, and
 - For acquisition, construction, demolition, replacement, major repair or renovation of real property where the proposed contract exceeds \$100,000.
- Executive Law Section 313 regarding minority and women owned business opportunity in bid proposals and contracts for acquisition, construction, demolition, replacement, major repair, or renovation of real property where the proposed contract exceeds \$100,000.

3.3 - Procurements funded by Outside Programs or Agencies

For any procurement funded with dollars provided for that purpose to the Authority by Dutchess County or any other outside party or funding program, additional requirements may apply to that procurement. In the event of inconsistencies or conflicts in the requirements, the more stringent requirements shall govern the procurement process.

3.4 – Emergency Circumstances

In accordance with General Municipal Law Sect. 103(4), in the event of an Emergency, the procurement requirements may be waived, and purchases of supplies, material or equipment and/or contracts for public works or professional services may be authorized by the Executive Director, Deputy Director, Director of Operations or Fiscal Officer.

General Municipal Law Sect. 103(4) defines “Emergency” as arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of a political subdivision or district therein, require immediate action.

In the event such an Emergency requires the purchase of goods or material of less than or equal to \$20,000, or a contract for public works or professional services of less than or equal to \$35,000, notification of the Emergency and the resultant procurements shall be made to the Authority Board at its next meeting. Such notification shall provide sufficient documentation to substantiate the existence of an Emergency.

In the event, such an Emergency requires the purchase of goods or material of greater than \$20,000, or a contract for public works or professional services of greater than \$35,000, notification of the Emergency shall be made to the Authority Board Chairman as soon as is reasonably possible, and to the full Authority Board at its next meeting. Such notification shall provide sufficient documentation to substantiate the existence of an Emergency. At such meeting a resolution will be presented for the Board’s consideration to confirm the existence of an emergency and to ratify the action of the appropriate officer in authorizing the procurement.

3.4.1 - NY WARN Mutual Aid and Assistance Agreement

NY Water/Wastewater Agency Response Network (NY WARN) is a statewide mutual aid organization designed to provide utility-to-utility response during emergencies.

The Authority authorized a Mutual Aid and Assistance Agreement on May 20, 2020 to receive the benefits of this program; this agreement governs the provision and receipt of assistance among and between member organizations. The Executive Director, Deputy Director, or Director of Operations are authorized to procure personnel, equipment, and supplies from a Member Agency of the NY WARN Mutual Aid and Assistance program responding to an Authority request, in accordance with the terms of that Agreement.

3.5 - Purchases through Dutchess County or NYS Office of General Services

In accordance with GML Sect. 103(3) the Authority may make purchases of goods, or may contract for services, other than services subject to article eight or nine of the labor law (e.g., those subject to prevailing wage requirements), when available, through Dutchess County without solicitation of price quotes or competitive bidding. In accordance with GML Sect. 104, the Authority may make purchases of goods (except for printed materials), or contract for some services, through the NYS Office of General Services (OGS) provided that such purchase exceed five hundred dollars, without solicitation of price quotes or competitive bidding. However, in the event that the

Authority has solicited and received bids for goods or services, no purchase of goods or contract for services can be made through the County or NYS OGS unless such purchase may be made or the contract for such services may be entered into upon the same terms, conditions and specifications at a lower price through the County or NYS OGS.

3.6 - Sole Source Procurements

In cases where a reasonably exhaustive and documented search discloses that a good or service is available from only one vendor; where there is common knowledge of the existence of a monopolistic situation for a particular good or service being sought; or in cases where sales/distribution territories are assigned by or recognized by the manufacturer of a good or service being sought, that good or service may be purchased from a single identified vendor without competitive bidding or solicitation of quotations. Determination of sole source status shall be at the discretion of the Executive Director or Deputy Director, or their respective designees.

3.7 – Preferred Source Procurements

In accordance with NYS Finance Law Section 162, the Authority will purchase certain approved products and services from designated “preferred sources,” if a preferred source offering meets the Authority’s needs for form, function and utility. Procurement from a designated preferred source supersedes the competitive bidding procedures otherwise required.

A list of Preferred Source Offerings is maintained by the New York State Office of General Services. <https://nyspro.ogs.ny.gov/content/buying-preferred-source-0>

4.0 - Purchase of Goods and Materials

4.1 – General Provisions

The following provisions apply to all purchases of goods and materials regardless of cost.

4.1.1 - Standardization of Equipment, Materials or Supplies

In accordance with GML Sect. 103(5), the Authority Board may, upon the adoption of a resolution by a vote of at least three-fifths of all the members, determine that, for reasons of efficiency or economy, there is a need for standardization, and may award a purchase contract for a particular type or kind of equipment, material or supplies, including for proprietary equipment, materials or supplies, to the lowest responsible bidder. Such a resolution shall contain a full explanation of the reasons for its adoption.

4.1.2 – Purchase of Surplus and Second-hand Supplies, Materials or Equipment

In accordance with GML Sect. 103(6), 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.

4.1.3 – Purchase of Recycled Products

In accordance with GML Sect. 104-a, when purchasing products, the Authority may, wherever recycled products meet contract specifications and the price of such products is reasonably competitive, purchase such products.

4.2 – Purchases of Goods and Materials Less Than or Equal to \$20,000

4.2.1 – Procurement Requirements

Except as may be otherwise allowed by Sections 3.4, 3.5, 3.6, 3.7, 4.1, or 4.2.2 of this Policy, all purchases of goods and materials of less than or equal to \$20,000 must be procured in accordance with the following requirements and require vendor signatures on procurement documents:

- Purchases of \$1,000 or less – No price quotes or purchase orders are required.
- Purchases of > \$1,001 to \$2,500 – No price quotes required. Purchase shall be authorized by a Purchase Order.
- Purchases of > \$2,501 to \$10,000 – Written quotes from three responsible and responsive vendors (if available) are required. Purchase shall be authorized by a Purchase Order.
- Purchases of >\$10,001 to \$20,000 –Written price quotes from three responsible and responsive vendors (if available) are required. Purchase shall be authorized by a Purchase Order and Authority Board approval.

4.2.2 - Special exceptions per GML Sect.104-b(2)(g)

The Authority Board may, in its sole discretion, identify specific circumstances when, or types of procurements for which, the solicitation of alternative proposals or quotations will not be in the best interest of the Authority. Such exceptions shall be established by resolution of the Authority Board.

4.3 – Purchases of Goods and Materials Greater Than \$20,000

Except as may be otherwise allowed by Sections 3.4, 3.5, 3.6, 3.7 or 4.1 of this Policy, all purchases of goods and materials greater than \$20,000 must be procured pursuant to a competitive bidding process, with the purchase contract award authorized by a resolution of the Authority Board. Competitive bidding processes must be carried out in compliance with all provisions of General Municipal Law Section 103.

5.0 - Purchase of Public Works Services

5.1 - Public Works Services Less Than or Equal to \$35,000

5.1.1 – Procurement Requirements

Except as may be otherwise allowed by Sections 3.4, 3.5, 3.6, 3.7 or 5.1.2 of this Policy, all public works services of less than or equal to \$35,000 must be procured in accordance with the following requirements and require vendor signatures on procurement documents:

- Procurements of \$2,500 or less – No price quotes are required, and services shall be authorized with a Public Works Service Order.
- Procurements of > \$2,501 to \$10,000 – Written quotes from three responsible and responsive vendors (if available) are required and services shall be authorized by a Public Works Service Order.
- Procurements of >\$10,001 to \$35,000 - A written scope of work is to be prepared and written quotes from three responsible and responsive vendors (if available) are required;
 - From > \$10,001 to \$35,000 services shall be authorized by a contract approved by an Authority staff person empowered to do so by Section 2.0 of this Policy and shall be approved by resolution of the Authority Board.

5.1.2 - Special exceptions per GML Sect.104-b(2)(g)

The Authority Board may, in its sole discretion, identify specific circumstances when, or types of procurements for which, the solicitation of alternative proposals or quotations will not be in the best interest of the Authority. Such exceptions shall be established by resolution of the Authority Board.

5.1.2.1 – Special Exception for Work to be Performed by Contract Operator

By adoption of the resolution establishing this Procurement Policy, the Authority Board hereby establishes the following special exception for work to be performed by Contract Operator:

From time to time, it may be necessary to perform work at an operating water or sewer system in a manner that does not interfere with ongoing operations and/or that calls for a special familiarity with the system. In such instances, the Executive Director, Deputy Director, or Director of Operations may authorize such work to be performed by the independent operator under contract to the Authority to operate said system, without the solicitation of alternative proposals or quotations otherwise required by this policy.

- For any scope of work to be performed pursuant to such an agreement and where total fees are anticipated to be \$2,500 or less no additional documentation is required.
- For services in excess of \$2,500 but less than or equal to \$35,000 the Executive Director, Deputy Director or Director of Operations shall execute a project specific “Work Order” specifying scope of work, maximum duration and lump sum or estimated not-to-exceed costs.

5.1.2.2 – Special Exception for Work to be Performed Pursuant to Annual Maintenance and/or Service Agreements:

From time to time, it may be necessary to perform work on Authority properties, facilities or equipment that is directly related to existing annual maintenance or service agreements (e.g., HVAC, generator, alarm, cleaning services, lawn maintenance, etc.), but outside of the defined standard scope of services. In such instances the additional services up to the amount of \$5,000 can be awarded to the contracted vendor without the solicitation of additional price quotes, provided that as part of the original solicitation, the Authority requested, and the vendor provided, a schedule of rates (e.g., hourly labor rates) for which such services would be provided.

5.2 – Public Works Services Greater than \$35,000

- Except as may be otherwise allowed by Section 3.4, 3.5, 3.6 or 3.7 of this Policy, all contracts for services greater than \$35,000 must be procured pursuant to a competitive bidding process, with the contract award authorized by a resolution of the Authority Board. Competitive bidding processes must be carried out in compliance with all provisions of General Municipal Law Section 103.
- Wicks Law Requirements – In accordance with GML Sect. 101, for all building projects in excess of \$500,000, the Authority will prepare separate specifications for the following divisions of work in addition to the general construction contract: plumbing; HVAC; and electrical. These divisions will be bid separately, and contracts awarded to the respective low bidders for each division. For bidding projects not in excess of \$500,000, the Authority will

require all bidders to submit, in a separate sealed envelope, names of all subcontractors to be utilized to perform these divisions of work and the agreed upon amounts to be paid to each. Subsequent to bid award, no changes to the subcontractors used, or amount paid, will be allowed without the Authority's approval.

6.0 - Professional Services

The procurement of services that are not subject to Public Works requirements, such as engineering or legal services, are designated as Professional Services. This also includes other services not subject to prevailing wage rates whereby services are performed at a vendor's location and not DCWWA owned property. Examples of this would include auto repairs on DCWWA owned vehicles, refurbishing equipment parts, snow plows installed on DCWWA owned vehicles, etc....

6.1 – General Provisions

Vendor signatures are required on all professional services procurement documents per below:

6.1.1 - Qualification Based Selection

Where it is deemed to be in the best interest of the Authority to do so, Professional Services may be procured through a qualification based selection process wherein firms will be pre-qualified to provide selected services based on their experience, past performance, ability to undertake the work, financial capability, and their reliability. A good faith effort shall be made to qualify a minimum of three responsible and responsive firms (if available.) Price proposals will be considered only from pre-qualified firms.

6.1.2 – Multi-Year Agreements

Where a professional services contract provides an option for renewal, all provisions for the same may be fully exhausted before the particular service shall be subject to a subsequent request for proposals. Annual contracts subject to renewal must be reviewed and approved by the Authority Board. Professional service agreements shall not be for a total term, including all renewals, of longer than five years.

6.2 – Professional Services Less Than or Equal to \$35,000

6.2.1 – Professional Services of Less Than or Equal to \$10,000

No price quotes are required. Services shall be authorized by a Professional Services Letter Agreement (PSLA) approved by an Authority staff person empowered to do so by Section 2.0 of this Policy .

6.2.1 – Professional Services of > \$10,000 to \$35,000

Except as may be otherwise allowed by Sections 3.4, 3.5, 3.6 or 6.1 of this Policy, a written scope of services is to be prepared and written quotes from three responsible and responsive firms (if available) are required. Services shall be authorized by a Professional Services Letter Agreement approved by resolution of the Authority Board.

6.2.2 - Services provided pursuant to Annual Professional Services Agreements

The Authority annually contracts for general legal, engineering, surveying, and financial advisory services, and for general engineering services specific to each water and sewer system owned by the Authority.

- For any scope of work to be performed pursuant to such an agreement and where total fees are anticipated to be \$2,500 or less no additional documentation is required.
- For services in excess of \$2,500 but less than or equal to \$35,000 the Executive Director, Deputy Director or Director of Operations shall execute a project specific “Task Order” specifying scope of work and lump sum or estimated not to exceed costs.

6.3 – Professional Services Greater than \$35,000

6.3.1 – Procurement Requirements

Except as may be otherwise allowed by Sections 3.4, 3.5, 3.6, 6.1 or 6.3.2 of this Policy, all contracts for services greater than \$35,000 must be procured pursuant to a formal Request for Proposals (RFP) process, with the contract award authorized by a resolution of the Authority Board.

Contracts shall be awarded on the basis of “Best Value” to a responsive and responsible proposer whose proposal optimizes quality, cost and efficiency, and in accordance with such additional procedures as may be established by the Authority.

6.3.1.1 Best Value Evaluation Procedures

Procurement solicitation documents shall specify the evaluation criteria to be used, which shall be objective and quantifiable. The solicitation shall describe

the general manner in which the evaluation and award of offers will be conducted and identify the relative importance or weighting of technical and cost factors. For purposes of Best Value award, a responsive proposer is one meeting the minimum specifications established in the procurement solicitation.

A Proposal Evaluation Review Committee shall be made up of three members, consisting of a Board Member, Executive Director (or designee) and the project manager. The Board Chairperson may appoint a temporary substitute member as required. Each Committee member shall independently evaluate each proposal against the established scoring criteria, with the final scores established by the Committee as a whole.

6.3.1.2 Best Value Evaluation Criteria

The Authority has established a Professional Services Consultant Selection Procedure (Rev. 1 dated 03/22/2022) which incorporates the Best Value Evaluation Criteria in greater detail based on the summary below.

Best Value Evaluation criteria shall consider both technical and cost evaluation criteria. Technical scores shall account for up to 70 percent of the final Best Value score. Cost proposal scores shall account for no less than 30 percent of the final Best Value score.

Technical criteria to be used in the evaluation may include the following:

- Experience of Firm and Proposed Management Team
- Personnel Qualifications and Experience
- Proposed Project Plan
- Previous Performance
- Location of Firm
- Workload of Firm with DCWWA
- Compliance with Specific Requirements of Funding Agencies as applicable

6.3.2 - Special exceptions per GML Sect. 104-b(2)(g)

The Authority Board may, in its sole discretion, identify specific circumstances when, or types of procurements for which, the solicitation of alternative proposals or quotations will not be in the best interest of the Authority. Such exceptions shall be established by resolution of the Authority Board.