

# East of Hudson Watershed Corporation

## Procurement Policy

**BOARD OF DIRECTORS**

**EOHWC**

[www.eohwc.org](http://www.eohwc.org)

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## **East of Hudson Watershed Corporation** **Procurement Policy**

Goods and services must be procured in a manner to assure the prudent and economical use of EOHWC moneys consistent with its mission and governing agreements; to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances; and to guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the EOHWC is adopting an internal policy and procedures governing all procurements of goods and services. This Procurement Policy shall be posted on the EOHWC Website. Vendors are responsible for reading and following the adopted Procurement Policy. The EOHWC will follow GML 103 as more specifically provided in this policy and will comply with Article 7 of the Funding Agreement between the City of New York and EOHWC dated June 12, 2013, and the New York City Watershed Memorandum of Agreement dated January 21, 1997. The following procurement policies and procedures shall apply to EOHWC.

Guideline 1 – GML 103 and Cumulative Needs Assessments. Every prospective procurement of goods or services shall be evaluated to determine the applicability of GML 103. Every EOHWC officer, board member, department head or other personnel with the requisite purchasing authority shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other EOHWC departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented, reviewed by the Purchasing Officer approving the procurement, and kept with the file or other documentation supporting the purchase activity.

Guideline 2 – Public Bids. In general accordance with GML 103, a) procurement of supplies, materials, or equipment which will exceed \$20,000 in the fiscal year will require public bid procedures based on written specifications, and b) public works contracts over \$35,000 will require public bid procedures based on written specifications, in each case on the basis of lowest responsible bidder.

Guideline 3 – Public Works Contracts Not in Excess of \$35,000: For public works contracts where the cost is between:

\$15,001 to 35,000: requires a minimum of three written quotes;

\$2,001 to \$15,000: requires a minimum of two written quotes;

\$500 to \$2,000: requires a minimum of two documented quotes with procurement at the discretion of the Purchaser.

Contracts not considered public works based on private ownership of the underlying real property will be procured by the Corporation using the applicable procedures for public works.

Guideline 4 – Supplies, Materials, Services and Equipment Under \$20,000: Procurement of supplies, materials, services or equipment where the cost is between:

\$5,001 to 20,000: requires a minimum of three written quotes;

\$2,001 to \$5,000: requires a minimum of two written quotes;

\$500 to \$2,000: requires a minimum of two documented quotes with procurement at the discretion of the Purchaser.

Where the Executive Committee has determined for the effectiveness and efficiency of EOHWC operations that standardization of supplies or equipment with existing supplies or equipment is necessary, the specifications may limit the purchase to a single brand or trade name. Competitive solicitations are still required even though the product pool is limited. Documentation of the need for standardization is required.

Guideline 5 – Best Value Procurement. The Executive Committee may award purchase contracts, including commodities, equipment, materials, supplies and contracts for services, on the basis of "best value," as that term is defined in New York State Finance Law § 163, otherwise required to be procured by public bidding pursuant to GML 103, where such award is in the best interests of EOHWC and complies with the requirements of GML 103 subdivision 1. This does not include purchase contracts necessary for the completion of a public works contract pursuant to Article 8 of the New York Labor Law and any other contract that may in the future be excluded under state law from the best-value option. Goods and services procured and awarded on the basis of best value are those that the Executive Committee determines optimize quality, cost and efficiency, among responsive and responsible bidders or offerors. Where possible, the determination shall be based on an objective and quantifiable analysis of clearly described and documented criteria as they apply to the rating of bids or offers. The criteria may include, but shall not be limited to, any or all of the following: cost of maintenance; proximity to the end user if distance or response time is a significant term; durability; availability of replacement parts or maintenance contractors; longer product life; product performance criteria; and quality of craftsmanship, and installation costs. Whenever any contract is

awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

Guideline 6 – Professional Services. Professional service contracts where the estimated fee is:

Over \$25,000: require a written RFP approved by the Executive Committee and written proposals from at least 3 consultants/contractors;

\$7,501 to \$25,000: require a written RFP approved by the Executive Committee and written proposals from at least 2 consultants/contractors;

\$2,000 to \$7,500: require written proposals from at least 2 consultants/contractors, with procurement at the discretion of the Purchasing Officer.

Any written RFP shall describe the required services, quantity, schedule, and deliverables. The Purchasing Officer shall compile a list of the providers from whom proposals have been requested and the proposals received.

All information gathered in complying with the procedures of this Guideline shall be preserved and filed with the documentation supporting the selection of the provider or providers.

Guideline 7 – Professional Services RFP Procedures. For a professional services contract the award shall be made to the proposer whose proposal represents the best value taking into account all facts and circumstances. Where RFP's are required, the EOHWC may require review and scoring of each proposal by an assigned committee or task force. For engineering services proposals, the review committee will be the Technical Committee and the Director of Engineering. For audit services proposals, the review committee will be the Audit Committee. Review will be on the basis of documented criteria determined to be applicable for such RFP and may include, where applicable:

- a. Professional qualifications;
- b. Specific experience and competence in area needed;
- c. Capacity to accomplish the work in the required time;
- d. Past performance on contracts with EOHWC and other agencies;
- e. Proximity to and familiarity with location of project(s);
- f. History of change orders required in construction; and
- g. Bid price.

The record of review and justification for the award shall be documented. If a provider is not deemed responsible, facts supporting such determination shall be documented and filed with the record supporting the procurement.

Guideline 8 – Responsible Bidders. The lowest responsible bidder for a contract subject to the lowest bid award as described in Guideline 2 shall be determined taking into account the following. In evaluating whether a bidder is a “responsible” bidder, the factors relevant to the bidder’s performance of the work specified in the specifications, or such other factors as may be listed in the specifications shall be considered, including but not limited to:

- a. Financial and organizational capacity;
- b. Legal authority to do business in the State of New York and the Counties of Dutchess, Putnam and Westchester;
- c. Business integrity of the owners/officers/principals/members and contract managers;
- d. Past performance of the bidder on prior government contracts;
- e. Sufficiency of bidder’s equipment and/or manpower to meet the requirements deliverables of the specifications;
- f. The bidder is considered a “responsible vendor” pursuant to the New York City VENDEX procedures;
- g. Ability to meet insurance and/or bonding requirements noted in the specifications;
- h. Record of compliance with NYS Labor Law requirements; and
- i. Avoiding excessive reliance on one firm.

Guideline 9 – Documentation. 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 shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement. It is understood that especially for certain professional services the EOHWC might be unable to find multiple providers with the expertise and abilities required to complete the proposed work. This must be documented.

Guideline 10 – Exceptions. The solicitation of alternative proposals or quotations will not be in the best interest of the EOHWC in the following circumstances, and in such cases, except when directed by the Executive Committee, no solicitation of written proposals or quotations shall be required:

- a. Emergencies arising out of an accident or other unforeseen occurrence or condition where circumstances affecting public buildings, public property or the life, health, safety or property require immediate action which cannot

- await competitive bidding, as determined by the Purchasing Officer and communicated concurrently to the Executive Committee;
- b. Sole source situations where unique benefit, reasonable cost, and unavailability of competition are documented by resolution of the EOHWC;
  - c. Goods purchased from agencies for the blind or severely handicapped;
  - d. Goods purchased from correctional facilities;
  - e. Goods purchased from another governmental agency;
  - f. Goods purchased at auction;
  - g. Goods purchased for less than \$500;
  - h. Service contracts for less than \$500;
  - i. Public works contracts for less than \$500;
  - j. Professional service contracts for less than \$2000; and
  - k. Piggybacking on a contract let through NYS OGS or another governmental agency where the requirements of GML 103 subdivision 16 are met as determined by the Executive Committee.

Guideline 11 – Purchasing Officers. For purposes of this policy, the President, or in his or her absence or unavailability the Vice President, shall act as the “Purchasing Officer”. The EOHWC Executive Committee may annually designate by resolution another person or persons authorized to act as a Purchasing Officer for purposes of this policy for designated purposes set forth in the resolution. A copy of any such resolution shall be posted on the website.

Guideline 12 – Annual Review and Updates. Comments have been solicited from EOHWC officers and staff involved in the procurement process prior to the enactment of this policy and procedures, and will be solicited from time to time hereafter. The Comptroller and/or Director of Engineering shall be responsible for conducting an annual evaluation of the effectiveness of the Procurement Policy and procedures and an evaluation of the control procedures established to ensure compliance with the procurement policy, and shall be responsible for reporting back to the Executive Committee. This policy shall be reviewed annually by the EOHWC Board of Directors at its organizational meeting or as soon thereafter as is reasonably practicable and, when needed, the Board will update this policy and procedures.

Guideline 13 – Effect of Noncompliance. The unintentional failure to comply fully with the provisions of General Municipal Law, section 104-b shall not be grounds to void action taken or give rise to a cause of action against the EOHWC.

Recommended by the EOHWC Executive Committee by resolution dated April 26, 2018, and approved pursuant to resolution adopted by the Board of Directors dated on May 8, 2018.