

ORDINANCE NO. 20 - 003
AN ORDINANCE ADOPTING A
PROCUREMENT POLICY
FOR THE SOUTHERN ILLINOIS ECONOMIC DEVELOPMENT AUTHORITY

WHEREAS, it is the intent of the **Southern Illinois Economic Development Authority (the "Authority")** to establish a procurement policy (the "Policy") for the procurement of contracts for legal, financial, and other professional and artistic services by the Authority in which the State of Illinois is not obligated. The Policy generally outlines the open and competitive process established by the Authority for the procurement of contracts and purchases and the respective roles of the Authority and its staff.

WHEREAS, this Policy is consistent with the Authority's long-standing commitment to transparency and making procurement decisions characterized by competitive selection, objective evaluation and proper documentation, all in accordance with the Authority's overriding fiduciary obligations and considerations.

WHEREAS, all prior existing procurement policies of the Authority be superseded by the Policy adopted by this Ordinance; and

WHEREAS, should any section or provision of this Ordinance or the adopted Policy be declared to be invalid, that decision shall not affect the validity of this Ordinance or adopted Policy as a whole or any part thereof, other than the part so declared to be invalid;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE AUTHORITY AS FOLLOWS:

Section 1. The Procurement Policy, included as Exhibit A to this Ordinance, is hereby adopted.

Section 2. This ordinance shall be in full force and effect on the date of its passage.

PRESENTED, PASSED, AND APPROVED by the Board of Directors of the Authority this 5th day of November 2020.

**SOUTHERN ILLINOIS ECONOMIC
DEVELOPMENT AUTHORITY**

(SEAL)

Chairman

ATTESTED:

Secretary

**SOUTHERN ILLINOIS ECONOMIC DEVELOPMENT AUTHORITY
Procurement Policy**

**ARTICLE 1
Introduction**

The Southern Illinois Economic Development Authority (the "Authority") has established this procurement policy (the "Policy") for the procurement of contracts for legal, financial, and other professional and artistic services by the Authority in which the State of Illinois is not obligated. This Policy generally outlines the open and competitive process established by the Authority for the procurement of contracts and purchases and the respective roles of the Authority and its staff.

This Policy is consistent with the Authority's long-standing commitment to transparency and making procurement decisions characterized by competitive selection, objective evaluation and proper documentation -- all in accordance with the Authority's overriding fiduciary obligations and considerations.

**ARTICLE 2
Exceptions**

This Policy does not apply to the following procurements:

- A. Beneficiary Company Selection. legal, financial, artistic and other professional services related to a financial assistance transaction that are determined by the beneficiary company of the transaction; and
- B. Sole Source Procurements. defined as procurement where there is only one economically feasible source for the item or service.
- C. Emergency Procurements. defined as a situation involving public health, public safety or cases where immediate expenditure is necessary for repairs to Authority property to protect against further loss or damage, to prevent or minimize disruption in Authority services, to miss a significant market opportunity not previously practicable to the Authority after consideration of the totality of the circumstances or to insure the integrity of Authority operations. Efforts will be made to accelerate or modify normal procedures to accommodate an emergency rather than to eliminate all such procedures. The Authority, by this Policy, has delegated authority for emergency transactions, which in the opinion of the Executive Director require immediate action, to the Executive Director.
- D. Small Procurements. At the Executive Director's discretion, contracts (i) valued at \$50,000 or less or provided that contracts valued in excess of such amount may be authorized in the sole discretion of the Board, (ii) that are nonrenewable and (iii) of one year or less in duration; Procurements involving tangible goods; and Procurements necessary to prepare for anticipated litigation, enforcement actions, or investigations.

E. Large Procurements. In relation to contracts valued at \$50,000 or more, that are non-renewable or of one year or less in duration, it shall be the policy of the Authority to obtain, whenever feasible, at least three quotes for the subject services.

F. Exception Reporting. All exceptions to this Policy shall be reported to the Board of Directors of the Authority and shall include a brief explanation of the reason for the exception. Dividing or planning procurements to avoid use of competitive procedures is prohibited.

ARTICLE 3

Effective Date, No Modification of Existing Contracts

This Policy is effective as of the date adopted by the Authority, as amended from time to time. This Policy does not amend or otherwise modify the Authority's existing contracts, which may only be amended or otherwise modified consistent with their terms. Further, nothing in this Policy is intended to limit the Authority's authority under existing contracts to extend or modify terms or otherwise take actions consistent with the existing contractual terms, all as the Authority deems prudent in light of then-existing circumstances.

ARTICLE 4

Pre-Solicitation Assistance

Any person or business who, at the request of the Authority or with the consent of the Authority, reviews or analyzes the Authority's assets, activities, documents, functions, organization, programs or anything of similar nature to aid in the determination of whether the Authority has a need for some good or service is prohibited from bidding on or receiving a contract to meet that need. Further, a person or business is prohibited from bidding on a solicitation and from having a contract arising from any of the following activities if the person or business, at the request of the Authority or with the consent of the Authority, assisted in the preparation of procurement documents in any of the following ways: (i) drafts, writes or assists the Authority with writing all or any part of a solicitation document; (ii) reviews or reads the solicitation document or comments on same; or (iii) participates in any activity relating to the organization or distribution of solicitation documents. Exception: Any person or business who responds to a posted or advertised request for information related to a procurement need of the Authority shall not be disqualified by virtue of responding to the Authority's publically advertised request.

ARTICLE 5

Selection

A. Authority Procurement Officer – The Authority Procurement Officer (APO) shall be the Executive Director of the Authority.

B. Solicitation Documentation. In general, solicitation documents that may be used include, without limitation, Request for Proposals (RFP), Request for Qualifications (RFQ) and Invitation for Bids (IFB).

C. Form of Solicitation. Each Solicitation Document shall contain, inter alia, some or all of the following depending on the form of solicitation: a description of the required services, materials or goods including any and all relevant specifications; a date certain by which responses to the solicitation shall be returned, the submission location for responses and the Authority's designated point of contact; the qualifying criteria and the associated evaluation factors to be utilized in the selection process; the scope of work; a statement of the minimum information that the response or proposal to the solicitation shall contain which may, by way of example, include: their principal place of business and, if different, the place of performance of the proposed contract; if deemed relevant, the age of the responder's business and average number of employees over a previous period of time, as specified in the solicitation document; the abilities, qualifications, and experience of all persons who would be assigned to provide the required services; a listing of other contracts under which services similar in scope, size or discipline to the required services were performed or undertaken within a specified period of time, as specified in the solicitation document; a plan, giving as much detail as is practical, explaining how the services will be performed; price; and other certifications deemed relative. The APO shall make the subject solicitation available to the public.

D. Questions regarding Solicitation. Any questions regarding a specific solicitation must be submitted in writing only to the designated point of contact for the solicitation in accordance with the timing and other related terms outlined in the solicitation.

E. Pre-Submission Conference. A pre-submission conference may be conducted, in the sole discretion of the APO, to enhance potential vendors' understanding of the procurement requirements. A pre-submission conference, if required, shall be announced as part of the solicitation document. The conference may be designated as "attendance mandatory" or "attendance optional".

ARTICLE 6

Responses to Solicitation and Evaluation

A. Delivery of Responses. Responses must be submitted to the designated contact in accordance with the terms stated in the solicitation document.

B. Evaluation of Responses. Each response will be evaluated by a Procurement Review Committee (PRC) that shall consist of the APO and two members appointed by the Chairman of the Authority. Such Committee shall conduct appropriate due diligence and provide a recommendation to the Board of Directors.

C. Notice of Selection. The Board of Directors shall make the final decision with respect to any recommendation from the PRC. One or more responders may be selected, as appropriate. The Authority reserves the right to make no selection as a result of a search.

D. Award. Bidders shall be notified of contract award. The notification shall be issued electronically, and additionally may be in the form of a letter, purchase order or other communication.

E. Negotiation of Contract. The APO or his or her designee shall negotiate the final terms of resulting contracts. In the event a contract is not able to be completed with a finalist, the Authority may select another finalist from among the remaining responders.

F. Consideration of Best Value. Nothing in this Policy shall prohibit the Authority from making a selection that represents the best value based on qualifications, fees and other relevant factors.

G. Disclosures and Conflicts of Interest. Contracts entered into pursuant to the policies contained herein shall contain language requiring vendors, and any subcontractors utilized by vendors, to disclose financial interests and potential conflicts of interest Documentation relating to such disclosures shall be reviewed by the PRC.

H. Prohibition on Political Contributions. Contracts entered into pursuant to the policies contained herein shall contain appropriate certifications from vendors indicating that they have read and understand the restrictions on making political contributions pursuant to the requirements of the Code.

I. Minority Business Enterprise. The Authority encourages the use of vendors that are owned by Minorities, Women or Persons with Disabilities. The Authority shall give consideration to certified Minority, Woman or Disabled owned businesses.

J. Subcontracts. The requirements of this Policy, including any and all required disclosures, shall apply to subcontractors of those vendors awarded contracts under this Policy. If at any time during the term of a contract, a vendor adds or changes any subcontractors, he or she shall promptly notify, in writing, the Authority.

K. Further Amendments. The Authority expressly reserves the right to amend this Policy, from time to time, without prior notice.

ADOPTED: November 5, 2020